IN THE

SUPREME COURT OF THE UNITED STATES

THE BOARD OF EDUCATION OF THE CITY OF MEMPHIS, Etc., Et Al,

Petitioners,

Vs.

DEBORAH A. NORTHCROSS, ET AL, MINORS, by T. W. NORTHCROSS, Sr., their father and Next Friend, Et Al,

Respondents.

No. 1022

MOTION OF MEMPHIS CITIZENS' COUNCIL, A CORPORATION, OF MEMPHIS, TENNESSEE, FOR LEAVE TO FILE A BRIEF AMICUS CURIAE, IN THE ABOVE STYLED CAUSE.

&

AMICUS CURIAE BRIEF, OF MEMPHIS CITIZENS' COUNCIL, A CORPORATION, OF MEMPHIS, TENNESSEE.

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CITY OF MEMPHIS, ETC., ET AL.,
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MOTION OF MEMPHIS CITIZENS' COUNCIL, A CORPORATION, OF MEMPHIS, TENNESSEE, FOR LEAVE TO FILE A BRIEF AMICUS CURIAE, IN THE ABOVE STYLED CAUSE.

To the Honorable, The Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States:

Now comes the Memphis Citizens' Council, a corporation, of the City of Memphis, Shelby County, Tennessee, and respectfully moves this Court, pursuant to Rule 42 of the Rules of this Court, for leave to file the accompanying brief in this case amicus curiae. Respondents ignored Movant's request for consent to file its following brief, and petitioners refused contending their consent would "weaken" their appeal! Movant's and its substantial membership's interest and reason for asking leave to file such brief in this case are, to-wit:

Movant is a corporate civic organization existing under laws of the State of Tennessee. Each of its members are public school taxpayers with respect to maintenance of the

public school system of said City. Many are parents of white students attending said public schools, which school system has been conducted, heretofore for many years, on a segregated basis as to students of the white and Negro races, under laws and the Constitution of Tennessee. Such basis of segregation has steadily become more important because of the rapid increase in the number of Negro students, now risen to about 44 per cent of the total students attending said public schools. All members of movant seriously oppose Negro with white student integration, in the public schools of Memphis, correctly they consider.

In view of said very high percentage of Negro students related, the adjudication rendered in this case by the Sixth Circuit Court of Appeals on March 23rd, 1962 now concerned, which has the effect of requiring complete Negro with white student integration in said schools, is earnestly considered as a compulsion of dire and calamitous detriments to and against the majority white race infant and minor students affected, and to their coming descendants, now being either too young and inexperienced or nonexistent, to defend or protect themselves therefrom, being entirely dependent upon the final determination in this case, including this Court's consideration of detriments to them, as would be presented to this Court by movant's brief to this Court on their behalf, in its nature as a guardian or protector of infants, minors, subject to its jurisdiction in this case.

It is respectfully said, that any final determination in this case without this Court's consideration of said detriments, which are sociologically and in fact indisputable, even to the extent of being reasonably contemplated to threaten and destroy white racial integrity in the United States, that any such failure would so abandon the white

progeny of the United States to the immutable result of racial mongrelization and corruption of the now white race with the Negro in this nation, by the evil social experiment of such racial school integration.

It is respectfully stated, that as this Court has only adjudicated, to date, in its Brown School Case decision, 347 U. S. 483, on detriments to the minority of Negro public school students in decreeing racial desegregation of or racial integration of public schools, that it would seem that fairness requires a further judicial examination in this connection by this Court, extended to consideration of the welfare of the children, and their descendants, of the white parents, mothers and fathers, composing the great majority of the total population of the United States. Movant says respectfully, that any closing of the judicial doors in regard to further consideration of said question would amount to the maintenance of unilateral adjudication only, because detriment specified in said Brown School Case decision relates to only the Negro minority race, ignoring detriments to be caused by racial school integration to the white majority race of the United States so involved, its students, fathers and mothers, and offspring in the future.

Said matters will not be adequately, or otherwise, presented in this cause by the parties thereto.

Movant respectfully requests this Court that it be allowed the same opportunity to file and have considered in this cause its following amicus curiae brief, like this Court allowed such briefs to be filed and considered in its determination of the similar, former and earlier case decided by it on May 17th, 1954, namely, that of Brown v. Board of Education, 347 U. S. 483.

Movant respectfully avers, that the future welfare of the United States may be nurtured only by the kind and character of its people, namely, the present and coming generations now so vitally affected and concerned, and in such interest and outlook to the future ahead, movant respectfully suggests that this Court be agreeable to let this issue be further developed, in truth and in fact by a full consideration, including by the amicus curiae brief movant respectfully prays this Court to allow it to file herein, and be considered in the final determination of this case.

Respectfully submitted,

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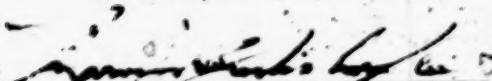

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AMICUS CURIAE BRIEF, OF MEMPHIS CITIZENS' COUNCIL, A CORPORATION, OF MEMPHIS, TENNESSEE

OPENING STATEMENT

Pursuant to leave granted by this Court, to Memphis Citizens' Council to file this brief, amicus curiae, it respectfully makes the following opening statement, to-wit:

The Sixth United States Circuit Court of Appeals, at Cincinnati, Ohio, rendered its decision in this case on March 23rd, 1962, F2d , in which rehearing has since been duly denied, which decision has the effect of decreeing and forcing the racial integration of Negro with white students in the public schools of Memphis, Shelby County, Tennessee. The said decision, page thereof, finds and recites "There are approximately 100,000 pupils in the Memphis school system, 44 per cent of whom are Negroes." Therefore, such decreed integration, if imposed, would bring about the compelled attendance and daily association of 22 Negro students with 28 white students within school rooms accommodating a total of 50 pupils or 18 Negro students with 22 white students within school rooms accomodating a total of 40 pupils. Under such circumstances, said racial integration would be substantial and material

to the issue of racial integration of the public schools at Memphis, and such design now raises in this case the sociological effects related, with respect to the substantial majority of white students so affected at Memphis (and as so concerned elsewhere in the United States) as was raised by this Court in its 1954 first Brown School Case decision, 347 U. S. 483, and as was adjudicated therein with unilateral consideration of only the minority of Negro school students related, namely, the so adjudged detriments to them by racial segregation of pupils in public schools without any expressed consideration or adjudication with respect to the detriments resulting to the great majority of white students, by integration of Negro with white students in public schools together in such close daily and continuing association throughout all the future.

Said Brown School Case so considers and adjudges, as follows, to-wit:

"Segregation of white and colored children in public schools has a detrimental effect upon the colored children."

Brown v. Board of Education, (May 17th, 1954) 347 U. S. 483, (494), 74 S. Ct. 686, 98 L. Ed. 873, 38 ALR2d 1180.

This brief, in the same nature of sociological content, and composition, addresses said subject in such same way as this Court has done, itself, in its said Brown School Case decision. It being respectfully understood, that by such kind of consideration and adjudication by this Court undoubtedly means that a like approach is now in order for notice by this Court in this case having the same kind or type of issue and matter concerned as was concerned in said Brown School Case. Except, now, herein, the sociology of vital interest cited and advocated stands on the side of

and supports the overwhelming majority affected, to-wit: the white children public school students, and those to follow them, in attendance at the public schools at Memphis, and elsewhere throughout our country the United States, whose welfare and future white racial integrity it is earnestly and respectfully pointed out was completely ignored and adjudged against by and under the decision in said Brown School Case.

BRIEF AND ARGUMENT.

Now, by said leave granted by this Court, it is respectfully stated, as follows, to-wit:

That the contents hereof are bottomed on the time honored and yet unchanged principle adjudged by this Court, and others, that each occupy the status of guardian, and protector, of infants, minors, falling under their respective jurisdictions and adjudications, defined as follows, to-wit:

An infant is under the protection of courts of both law and equity.

> Dexter v. Hall, 82 U. S. 9, (21), 21 L. Ed. 73.

Minors are wards of the court and their rights must be guarded jealously.

> Montgomery v. Erie R. Co., 3 CCA 97 F2d 289, (292).

> In deference to common experience, there is general recognition of the fact that many persons by reason of their youth are incapable of intelligent decision, as the result of which public policy demands legal protection of their legal rights.
>
> Bonner v. Moran, U.S.C.A. Dist of Col., 126 F2d 121, (122).

The most fundamental, cardinal and highest legal rights of the chief and greatest number of infants, minors and wards of this Court involved now are the white children students attending public schools at Memphis, and the vast number of them constituting the overwhelming majority of the total of all children students attending public schools of this country, the United States, whose such rights include the right of personal security. As appears below, their such right is now threatened with destruction and the grossest violation by the forcing of racial school integration on and against them. Their right to personal security may be defined, as follows, to wit:

The right of personal security is one of the natural rights (1); it consists in each person's right to legal and uninterrupted enjoyment of his life, his limbs, his body, his health and his reputation, (2); and such right is guarded by various provisions of the federal constitution, derived in part from Magna Charta and other charters of English liberty, and reinforced by additional and more specific injunctions, (3). The Fourteenth Amendment to the U. S. Constitution guarantees the right of personal security from abridgment even by the states (4) as well as by the federal government (5). Any *legislation* or *acts* in violation of said right are null and void (6), except where interposed in the interests of common safety and welfare, (7). The courts must ever be watchful to protect the personal rights guaranteed by the federal constitution, (8).

(1) 16 C.J.S. (Const. Law) Sec. 205, p. 1014, note 14.

(2) 12 C.J. (Const. Law) Sec. 449, p. 941, note 36;
16 C. J. S. (Const. Law) Sec. 205, p. 1015, note 17.

(3) 12 C.J. (Const. Law) Sec. 449, p. 941, note 37;
2 Kent Comm. Sec. 12;

16 C.J.S. (Const. Law) Sec. 205, p. 1014, note 15; U. S. v. Wheeler, 149 F. Supp. 445, (451), holding:

The court in speaking of the constitutional right of "security of person" refers thereto as being "the bulwark of constitutional protection upon which rests the foundation of all our freedoms, and must be held sacrosanct in the application of the law. To deviate or compromise these sacred rights is to imperil our basic freedoms." And "that constitutional provisions for the security of person should be liberally construed. Boyd v. United States, 116 U. S. 616, 635, 6 S. Ct. 524, 29 L. Ed. 746; United States v. Lipshitz, 132 F. Supp. 519." (Page 4514).

(4) 16 C.J.S. (Const. Law) Sec. 205, p. 1014, note 15.5.

(5) Hague v. Committee, etc., 101 F.2d 774, (788).

(6) 16 C.J.S. (Const. Law) Sec. 205, p. 1015, note 19; 16 C.J.S. (Const. Law) Sec. 199, p. 977, note 35.

(7) 16 C.J.S. (Const. Law) Sec. 205, p. 1016, note 22.50; Alabama State Fed. of Labor v. McAdory, 18 So. 2d 810, (822), 246 Ala. 1, cert. dism. 325 U. S. 450, 65 S. Ct. 1384, 89 L. Ed. 1725.

(8) 16 C.J.S. (Const. Law) Sec. 199, p. 976, note 32, citing:

Byars v. U. S., 273 U. S. 28, (32), 47 S. Ct. 248, 71 L.Ed. 520, holding:

"Constitutional provisions for the security of person are to be liberally construed, and 'it is the duty of courts to be watchful for the constitutional rights of the citizen, and against any *stealthy encroachments thereon.*' Boyd v. United States, 116

U. S. 616, 635; Gouled v. United States, 255 U. S. 298, 304.' " (Page 32).

JUDICIAL NOTICE

It is now respectfully noted, that this Court, in arriving at its sociological decision in said Brown School Case did so by its judicial notice evident thereby, particularly as appears by note 11 on page 494 of its officially reported content, 347 U. S. at its page 494. Thus, this Court has approved such method and pattern as being proper to pursue in public school racial integration cases, which such use and course in judicial adjudications, of facts noticed for judicial adjudication thereon, from writings of lay character and of the judiciary, is generally authorized under the following citations, to-wit:

Federal court judges, with respect to a matter of a proper subject of judicial notice, may inform himself in such manner as he chooses (1) or as he deems proper, (2). A judge may refer to books or periodicals or public addresses (3), public documents or records of all kinds (4), government publications (5), dictionaries (6), encyclopedias (7) and reports of committees of both House and Senate of the United States, (8).

To aid the court in applying judicial notice, it is proper (for a litigant) to call attention to the place where the fact or law may be found which is to be judicially noticed, (9).

It is the duty of the judge to pursue inquiries sufficient to make his knowledge real as far as possible, (10).

(1) Strickland v. Humble Oil & Ref. Co., CCA 140, F2d 83, (86), cert. den. 323 U. S. 712, 65 S. Ct., 89 L.Ed. 570.

(2) Adam Hat Stores v. Lefco, 134 F2d 101, (104).

(3) 23 C. J. (Evid.) Sec. 2001, p. 170, note 52;
31 C. J. S. (Evid.) Sec. 12, p. 517, note 15.

(4) 23 C. J. (Evid.) Sec. 2001, p. 169, note 39;
31 C. J. S. (Evid.) Sec. 12, p. 517, note 11.

(5) 23 C. J. (Evid.) Sec. 2001, p. 170, note 48.

(6) 23 C. J. (Evid.) Sec. 2001, p. 170, note 49;
31 C. J. S. (Evid.) Sec. 12, p. 517, note 12.

(7) 23 C. J. (Evid.) Sec. 2001, note 50;
31 C. J. S. (Evid.) Sec. 12, p. 517, note 13.

(8) United States v. Aluminum Co. of Am., 1 F.R.D. 71, (76);

Arizona v. California, 283 U. S. 423, (453-4), 51 S. Ct. 522, 75 L. Ed. 1154.

Note:

"—the authenticity of an official document is sufficiently established when a copy of it is offered in evidence which purports to have been printed by authority of the Government"—as when printed by the U. S. Government Printing Office, (p. 73).

United States v. Aluminum Co. of Am., 1 F. R. D. 71, (75).

(9) Turnage v. Gibson, 211 Ark. 268, (270), 200 SW2d 92, citing:
20 Am. Jur. (Evid.) Sec. 52.

(10) 31 C. J. S. (Evid.) Sec. 12, p. 517, note 8.

Effect of judicial notice, when taken: the taking of judicial notice has the effect to relieve one of the parties to a controversy of the burden of introducing evidence thereon.

Ohio Bell Tel. Co. v. Pub. Utl. Comm. of Ohio, 301 U. S. 292, (301), 57 S. Ct. 724, 81 L. Ed. 1093.

And, of course, "courts take judicial notice of matters of common knowledge."

Ohio Bell Tel. Co. v. Pub. Utl. Comm. of Ohio, 301 U. S. 292, (301), 57 S. Ct. 724, 81 L. Ed. 1093.

And, federal courts may take judicial notice of public press items.

Borders v. Rippy, (1960) 184 F. Supp. 402, (420).

In accordance with the authority cited hereunder, this Court is respectfully requested to takes judicial notice herein, in this proceeding, of which all opposing parties in this case are hereby notified thereof.

Wigmore on Evidence, Vol. IX, Sec. 2568, p. 536.

More particularly, with respect to the nature of this case and its subject-matter, the following is cited on the subject of judicial notice as being closely related in this case, as follows, to-wit:

The general rule is that it is the duty of a court to take judicial cognizance of all matters affecting the health, and social (1) or political welfare of the public (2), which are in accord with general or scientific knowledge, (3).

(1) 20 Am. Jur. (Evid.) Sec. 100, p. 113, notes 15 & 16, citing:
Jacobson v. Massachusetts, 197 U. S. 11, (35), 49 L. Ed. 643, 21 S. Ct. 358.

(2) 20 Am. Jur. (Evid.) Sec. 100, pps. 113-114, note 17, citing:
United States v. Hamburg, Etc., 239 U. S. 466, (474-5), 60 L. Ed. 387, 36 S. Ct. 212.

(3) 20 Am. Jur. (Evid.) Sec. 100, p. 114, note 18, citing: Ohio L. Ins. &T. Co. v. Debolt, (U.S.) 16 How. 416, 14 L. Ed. 997.

SOCIOLOGY DEFINED

As the subject of "sociology" is now concerned, as it was the foundation and basis of said Brown School Case decision its definition is given, to-wit:

> Sociology is the science of the origin and evolution of society. — Its subject matter is variously conceived to be society, culture, social institutions, collective behavior, or social interaction—the study of the associated life of man.
>
> Webster International Dictionary, 2nd Ed., pps. 2387-8.

Or, more briefly defined:

> Sociology is the science of the constitution, evolution, and phenomena of human society, (1). Social science, (2).
>
> (1) New Handy Webster Dictionary, page 318.
>
> (2) Webster's Home, School and Office Dictionary, pages 477-478.

It is respectfully now said, that it conclusively appears by above cited authorities that in such a case as this one is, that is, concerning public school racial integration, that a very broad area with respect to sociology related is properly opened for attention, reference, consideration and further adjudication in such connection, on the question of whether, or not, any particular public school system should be forced, and compelled, to racially integrate its schools. This sociological character of such consideration, by judicial notice, as has been done by this Court in its said

Brown School Case decision has, thereby, set such course and criterion to be followed now, and herein, which will be earnestly sought to be duplicated hereinafter, but, this time, as distinguished from the earlier instance in said decision of May 17th, 1954, in the crying need of defense and in protection of the majority of white children, public school students, and their descendants over whose heads, it is respectfully stated, hangs a "sword of Damocles" because of said decision because of the irrefutable, diabolical and almost unspeakable detriments they will certainly suffer, fatally in their integrity of being and not thereafter subject to recall, which will ensue unless they are shielded and same is prevented by this Court, in how it decides this case. What this Court does in this case, it is further respectfully stated, will either condemn and sentence them to or save them, and their descendants in the future, from the immutable destructive sociological effect of such close and continued social daily association, together, upward from the earliest primary school grades for years, namely, myriads of them in amalgamation and consequent corruption of body, mind and soul of their progeny, by presently so influenced and induced racial intermarriage and mongrelization of the white and Negro races, into a grotesque being neither white or black. As their guardian, it is respectfully said, this Court occupies a highly protective or dangerous position in this case with respect to the overwhelming majority of the white children now involved, and to their continuing offspring for all time to come in this country, the United States, which as is common knowledge is one of only a few white nations left on this earth because of the racial integrations and amalgamations of the past to date. This is outstanding in the history of mankind in the World. Therefore, the most gripping and important question now is—what, in the name of the white

children, their white mothers and fathers who, together constitute the overwhelming majority of our total population—is this Court going to do, decree, in this case?

In reflecting an answer to said question, it is most respectfully stated, that this Court clearly occupies a highly protective or a very dangerous position by the way of answers, with respect to the overwhelming majority of white students related and to the great majority of white population of the United States, and their descendants, yet to come. It is also most respectfully said, that on the subject of racial (Negro with white) forced public school integration that the time has come for the truth to be exposed and told, to wit: unfeelingly, that this brief and argument is like, in the nature of, a heart to heart talk by a condemned and sentenced innocent, with his or her possible executioneer, so to speak, whose eyes and understanding it is honestly and earnestly sought to be opened and hand stayed while life remains furnishing the opportunity for clemency before eternal extinction or destruction is imposed and executed. It is respectfully submitted, that any reasonably suspecting to be garroted, is in are entitled to be heard. Such "any" is the majority present white population, and progeny, standing in the shadow of the "guillotine," figuratively, of corruption and debasement by Negro with white racial integration and race-mixture to be influenced and assured by any decision or fiat deceiving both into the false belief that such mongrelization is approved and to be effectuated in this country, the United States, as being sanctioned by its Constitution construed sociologically. "O justice, how many crimes have been committed in thy name!" Under such premise, it is respectfully considered necessary and proper for it to be stated that this brief and argument, within the bounds therefor, opposes and critizies the contents and rationale of said

Brown School Case decision forcing racial public school desegregation by compelling racial integration thereof, under the following authorities, to-wit:

A lawyer may criticize court decisions in a fair and respectfully manner, (1). The right of lawyers and others to criticize in a legitimate manner the conduct and rulings of judges is not to be questioned, where a judicial officer is not subjected to scandalous and libelous charges and indignities, (2). Any attorney, as well as any other citizen has the right except by false and scurrilous matters, to criticize the Courts and their decisions, (3). Attorneys have the widest latitude in differing with, and critizing the opinion of the courts, it is only when they resort to misrepresentations and unwarranted assaults upon the courts whose officers they are, that they violate their duty and obligation, (4).

(1) In re Ades, 6 F. Supp. 467, (481).

(2) Cobb v. United States, 9th CCA, 172 Fed. 641, (645).

(3) Kentucky State Bar Ass'n. v. Lewis, (Ky.) 282 S.W.2d, 321, (326), citing:
Thatcher v. United States, 6 Cir., 212 F. 801.

(4) 6 C. J. (Atty. & Client) Sec. 54, p. 594, note 93, cited with approval by:
In re Humphrey, (Sup. Ct. of Calif.), 163 Pac. 60, (62).
7 C. J. S. (Atty. & Client) Sec. 23, p. 752, note 79.

Stated, as reported, before the American Bar Association's Assembly, in session in New York City, applause greeted the following words there argued by Honorable Louis C. Wyman, attorney general of New Hampshire, quot-

ing, "it is the duty of every lawyer to speak out at any time against decisions with which they disagree, without impugning the integrity of members of the court," see "editorial "Court And Criticism," Memphis Commercial Appeal, issue of July 24th, 1957.

We next respectfully proceed to present, under one or other of the authorities on judicial notice authorizing same as are above cited or as hereinafter cited, the matters of sociology indisputably supporting the white race majority at Memphis, and elsewhere, affected against forced racial (Negro with white students) public school desegregation or integration therein.

THE HORRIBLE AND DISGUSTING DETRIMENTS THAT SOCIOLOGY SHOWS WILL ENSUE TO THE MAJORITY OF WHITE STUDENTS NOW IN PUBLIC SCHOOLS AND TO THEIR PROGENY TO FOLLOW THEM, BY FORCED NEGRO WITH WHITE STUDENT INTEGRATION IN PUBLIC SCHOOLS TOGETHER.

It is a matter of historical fact, of common knowledge, that the United States is now one of only a few predominatingly white nations on Earth, in this World, left, as the result of racial integrations, amalgamations and assimilations of the past, to date. With every respect, let it be firmly noticed that it may be said without the possibility of well grounded dispute, that in view of the United States being a democracy, a government by the people collectively by elected representatives, a republic, controlled by a majority of its citizens who happen heretofore, and now, to be of the white race, that it necessarily follows that the Brown School Case decision favoring the Negro minority only, at the expense of the white majority, is not

sound and under such circumstances, even while garbed in judicial dress it has become to many, reasonably questionable or bewilderingly and honestly suspect or vulnerable, particularly because it ignores said majority of the people so sorely affected thereby, in whom "all sovereignty rests" under the form of government, of the United States. No plausibility or strained composition to the contrary has any competency, in any degree, or truth under the kind, nature and character of the genius of the organization and existence of the government of the United States. This may not be factually or legally gainsaid. Let's now take a well considered look at said decision in said Brown School Case, which is respectfully now referred to as being the most monstruous decision occurring in all history to date, except that of the Sanhedrin convicting and sentencing the mortal body of our Lord, Jesus Christ to death, Mark 14:64, Matt. 27:66 and see: John 19:7 and Luke 22:71, 23:10 & 21-25, all of which Biblical cited contents are proper subjects for judicial notice, under the following authority, to-wit:

Biblical literature may be resorted to by federal courts for information:

Baker v. F. A. Dunscombe Mfg. Co.,
146 Fed. 744 (747), 77 CCA 234, so cited by:
20 C. J. (Evid.) Sec. 2001, p. 170, note 52 (b).

The question is respectfully posed, why is said Brown School Case decision monstruous?

Respectfully, because it, in view and consideration of indisputable sociological principles, sentences the majority young of the white race attending public school at Memphis, and elsewhere, to an admixture and mongrelization with the Negro race, being a destruction and death to the present and future integrity of their white race bodies,

being now pure biologically and elsewise members of the white race, constituting a gross violation of their highest cardinal right of security in person now, and hereafter. This is as clear as the noon day sun, and is not subject, it is respectfully said, to valid dispute—even officials of the NAACP well know and declaim that such Negro racial admixture and mongrelization will, and is designed to be brought about, by such racial school integration as now evidenced, and cited, as follows, to-wit:

Walter White, as executive-secretary of the NAACP, quoting: "*The association of the races in public schools leads to friendship, love and marriage.*" U. S. News & World Report, its issue of May 28th, 1954.

Albert Kennedy, NAACP lawyer, quoting, "*Integration will result in white girls being associated with Negro boys. Naturally, intermarriage will result. We of the NAACP are committed to a program of full integration.*" (Associated Press) in Twin City Sentinel of Winston-Salem, N. C., issue of August 31, 1955.

Forced School Integration In The U. S. A. (1961), pps. 227-228.

Said statements from said NAACP sources are absolutely correct, under the true principles of sociology related, as follows, to-wit:

It may been seen from Professor Richard T. La Piere, professor of sociology, Stanford University, in his book on sociology, 1st edition, third impression, 1946, pages 438 and 440, and footnotes at bottom of pages 438 and 439, that with reference to the subject of assimilation by one race of another and the way of bringing same about, the usual prelude is the acquisition of association by members

of the minority race (the Negro race in this instance) with members of the majority race (the white race in this instance) or through such more formal means as *attendance at schools together* that represent the culture of the majority race group. That the American school system already has, for this reason, been an important factor in the assimilation of many race minorities having attended schools together to date. That the usual mechanism of assimilation is *intermarriage*. That when considerable members of a minority race are involved in the process, *the entire minority group may disappear into the majority group in a few generations*. That the children of different race groups are "cultural hybrids" of a "social status" somewhere between that of one such parent and the other.

Dr. Bogardus, professor of sociology of the University of Southern California, in his book on sociology, its 4th edition, on its page 347, states that if the members and numbers of such "hybrids" grow numerous and finally outnumber the parent groups, *that then the "hybrid" becomes the ruling class!* In such connection, it must be publicly noticed that now, even the government, itself, is contributing, under the name or heading of "welfare" to the multiplying, by leaps and bounds, both within and outside of holy wedlock, of countless Negro bastards, who, no doubt, will follow NAACP leadership in seeking to control, even further, the political destiny of our country which it is respectfully stated is not even good nonsense and will figuratively swamp the United States, if allowed to continue.

Further, from sociology which teaches all its truths to better guide in this life, we have it solemnly opined within the decision of the U. S. District Court, at Dallas, Texas, of May 25th, 1960, in the reported case of Borders v. Rippy, 184 F. Supp. 402, uncontrovertible proof that racial integra-

tion in public schools will result in racial intermarriage and amalgamation of such Negro and white students. Said decision was authored by the Honorable T. Whitfield Davidson, senior judge of the Northern District of said federal district court, sitting at Dallas. The following is now given from that decision, which for such reasons refused to grant the plan submitted by the NAACP at Dallas, for integration of the public schools there, to-wit:

"There will, however, almost certainly arise a problem by this (sought) plan (for racial integration of Dallas schools) that is bound to defeat it as the years progress; and that is in the language of Dr. Nevins: *amalgamation will inevitably follow, in twelve years (of schooling together), adult pupils will be channeled together. An old sage once remarked that your children will marry whomever they associate with, and our army life is proving that fact. This plan of starting with the lower grade . . . is in all probability the most direct and surest route to amalgamation which in the long run is most objectionable of all features of (public school) integration.*—A well recognized author has said: 'Two currents cannot flow side by side down through the centuries without ultimately becoming one.' Since most of the white in the South desire to maintain their *racial integrity*, they would for that reason alone oppose integration in the schools. Dr. Allen Nevins, historian and author, winner of the Pulitzer Prize and for 30 years professor of history of Columbia University, on this subject says: 'At first the fusion will be imperceptible; then it will be perceptible but slow; then it will move with a rush. I could cite a dozen analogies from history to prove that *such a process is inexorable, irrestible. Any sociologist could cite a dozen reasons why it is inevitable.*" (Page 415).

Of course, it is respectfully said, it is an easy matter to

understand the Negro wish, desire, sought for him by the NAACP, and cohorts, to bring about Negro with white race amalgamation, regardless of the bankrupting expense to the white race of any such success. This graphically appears under the following cited sociological facts, to-wit:

"It is usually assumed that COMPANIONS of his own age wield a vital influence in shaping the ADOLESCENT." (1). "Races differ in body, mind (2) and moral standards (3) and with respect to intelligence tests give the Negro a low station compared with most mankind (4) *and show that the success of the Negro's learning* (which includes his education in the public schools) INCREASES with a GREATER PROPORTION OF WHITE ANCESTRY," (5), which is just what said NAACP, the mover in public school integration cases, plans to effectuate, if it can, by compelling general Negro with white racial integration in the United States.

(1) Psychology of Childhood, by Norsworthy & Whitley, page 183.

(2) The Egyptians, 1920-21, page 93.

(3) Same as (1) above, page 228.

(4) Same as (1) above, page 14.

(5) Same as (1) above, page 16.

It is respectfully noted that the affirmative answer to the question of—"Would integrated schools lead to mixed blood?" may properly be judicially noticed within the composition of "Mixed Schools and Mixed Blood," by Herbert Ravenel Sass, distinguished citizen of Charleston, South Carolina, an independent, and an Episcopalian, within the Congressional Record, 1956, some of which is now referred to, to-wit:

"Science has most certainly not proved that all races are equal, much less identical, and, as the courageous geneticist, Dr. W. C. George of the University of North Carolina, has recently pointed out, there is overwhelming likelihood that the biological consequences of white and Negro integration in the South would be harmful. It would not be long before these biological consequences became visible. But there is good hope that we shall never see them, because any attempt to force a program of racial integration upon the South would be met with stubborn, determined and universal opposition. Though secession is not conceivable, persistence in an attempt to compel the South to mingle its white and Negro children in its public schools *would split the United States in two* as disastrously as in the 1860's and perhaps with an even more lamentable aftermath of bitterness.

"For the elementary public school is the most critical of those areas of activity where the South must and will at all costs maintain separateness of the races. The South must do this because, although it is a nearly universal instinct, race preference is *not active in the very young*. Race preference (which the propagandists miscall race prejudice or hate) is *one of those instincts which develop gradually as the mind develops and which, if taken in hand early enough, can be prevented from developing at all*.

"*Hence if the small children of the two races in approximately equal numbers as would be the case in a great many of the South's schools were brought together intimately and constantly and grew up in close association in integrated schools under teachers necessarily committed to the gospel of racial integration, there would be many in whom race preference would not develop.* This would not be, as superficial thinkers might suppose, a good thing, the happy

solution of the race problem in America. It might be a solution of a sort, but not one that the American people would desire. *It would inevitably result, beginning with the least desirable elements of both races, in a great increase of racial amalgamation, the very process which throughout our history we have most sternly rejected.* For although to most persons today *the idea of mixed mating is disagreeable or even repugnant; this would not be true of the new generations brought up in mixed schools with the desirability of racial integration as a basic premise. Among those new generations, mixed marriages would become commonplace, and a greatly enlarged mixed-blood population would result.*

"That is the compelling reason, why the South will resist the mixing of the races in its public schools. It is a reason which, *when its validity is generally recognized, will quickly enlist millions of non-Southerners in support of the South's position.* The people of the North and West do not favor the transformation of the United States into a nation composed in considerable part of mixed bloods any more than the people of the South do. Northern support of school integration in the South is due to the failure to realize its inevitable biological effect in regions *of large Negro population* (as is now currently taking place in cities and communities in the North and West). If Northerners did realize this, their enthusiasm for mixed schools in the South (or in the North) *would evaporate at once.*

"There are other cogent reasons for the white South's stand: the urgent necessity of restoring the Constitution and our Federal form of government before they are permanently destroyed by the (Supreme) Court's usurpation of power; the equally urgent necessity of re-establishing law and precedent instead of SOCIOLOGICAL and

PSYCHOLOGICAL theory as the basis of the Court's decisions (as now adjudged); the terrible damage which racial integration would do to the South's whole educational system, black as well as white.

"As already pointed out, the fear that mixed schools in the South would open the way to racial amalgamation is not a bogey or a smoke screen or a pretense of any kind but the basic animating motive of the white South in resisting the drive of the NAACP and its supporters. The Negro leaders DO WANT RACIAL AMALGAMATION: they not only want the right to amalgamate through legal intermarriages, *but they want that right to be exercised widely and frequently.*

"It is because there (by integrated schools) the adolescent and 'unprejudiced' mind can be reached *that the integrationists have chosen the Southern schools as their primary target; and it is precisely because the adolescent and therefore defenseless mind would there be exposed to brain-washing which it would not know how to refuse that the white South will not operate integrated public schools. If the South fails to defend its young children who are not yet capable of defending themselves, if it permits their wholesale impregnation by a propaganda persuasive and by them unanswerable, the salutary instinct of race preference which keeps the races separate, as in nature, will be destroyed before it develops, and the barriers against racial amalgamation will go down.*

"This is the new and ominous fact which, as was said at the beginning of this article, lurks in ambush, concealed like a viper in the school integration crusade. Success of that crusade would mean *that after three and a half centuries of magnificient achievement under a system of racial*

separation and purity, we would tacitly abandon that system and instead would begin the creation of a mixed American race by the fusion of the two races which, as H. G. Wells expressed it, are at opposite extremes of the human species.

"Many well-meaning persons have suddenly discovered that the tenents of the Christian religion and the professions of our democratic faith compel us to accept the risks of this hybridization. No one who will face up to the biological facts and really think the problem through can believe any such thing or see the partial suicide of the white race in America (and of the Negro race also) as anything other than *a crime against both religion and civilization.*" Said article taken from the Congressional Record just above quoted from, may be found in its entirety, somewhat abstracted form, at pages 42-54 of said book, "Forced School Integration In The U. S. A." (1961), which is a sociological, religious, legal and political composition opposing Negro with white student racial integration of the public schools in the United States, and elsewhere.

It is now respectfully averred that while the just above quoted language from the Sass article is substantially oriented with respect to related racial circumstances in the South, where there is very large Negro population, that it would be like "the very clouds above the mountain peak of absurdity" to apply same only to the situation in the South. This is true, against any valid contention to the contrary, because as a matter of common knowledge all know of the great, and ever daily increasing influx of enormous numbers of Negroes in addition to the millions of them already residing in the North and West of the United States, which is constantly occurring by Negro migration thereto which shift in the residency of Negro population from the South to the North and West, their

communities and cities, is fast acquainting those areas with Negroes and the problems which accompany them, wherever they live. The white population in all such places, and localities, cannot avoid the attendant influences, penalties or hazards so produced, to be suffered and coped with, as for in all the incidental past and at the present, has had to be worked with and endured in the South. The Negro question is no longer indigenous only to or in the South—its now almost a general and is fast approaching a completely general sociological condition, aspect and mien in the United States, at large. The white people of the North and West now, and later, need and will more greatly need as time passes; protection from the Negro hordes which have, and will continue to be born and settle upon them and their communities, as veritable "swarms of locusts or grasshoppers" just as much as the South has had and now has, such same need. It is earnestly prayed, that no one's eyes be closed to this obvious and very real danger, which is presently so apparent in our country, the United States. The issue on the merits, or demerits of forced racial public school integration is no longer a sectional one, it is now a national issue of transcendent importance throughout the United States.

Such national issue now includes and embraces a required consideration of the horrible and terrible *detriment* to the majority white children school students and their descendants, and likewise with respect to their white parents constituting the large majority of the population of our country, the United States, namely, of the procreation of mongrelized, white with Negro mixtures mullattoes, offsprings of Negro and white parents, sociologically induced and produced by forced white with Negro students integrated in public schools together, year after year, which is

a palpable invasion and violation of each of said majority's respective rights to security of their persons, which would never occur otherwise. No argument seems to appear discounting the premise, that people of the white race, or any other race, have the not to be doubted right in connection with their indisputable constitutional right of security in their persons, to procreate after their own kind, free from any *influence* or design to the contrary. Such right also exists under Biblical plan and mandate, under God's grand design in the creation of this World and all on it, namely, that all increase should be after HIS or ITS "kind," Bible, Gen. 1.

It is respectfully stated, that judicial reference may be looked to on the matter of the just above mentioned word "influence," in its meaning as a potency tending to produce effects insensible and invisibly, viz., racial school integration as being potent to produce the effect of racial amalgamation. The above authorities show said effect to be caused by racial school integration and the element of influence is judicially defined as having potency to bring about what it concerns or indicates as being proper or correct, to-wit:

Influence is a subtle agent. It is often potential when its presence is unsuspected. (1). Influence is the act, or process, or the power, of producing an effect without apparent force or direct authority. (2). It arises out of social relations. (3). Influence means to alter or move in respect to character, conduct or the like, to sway, effect, in some subtle or gradual way. (4). In speaking of "social environment" in the sense of same influencing minors to their *defrijment*, the court found in this cited case that their *environment* had that effect upon them; and defined "environment" as meaning—the surrounding conditions, influences, or forces, which influence or modify, and that "social environment"

comprises everything to do with human activity (5) *which, of course, includes the activity of racial school integration.*

(1) Cheney v. Uproe, 166 Ind. 550, 77 N.E. 1041, (1043).

(2) State v. Wren, 333 Mo. 575, 62 SW2d 853, (855).

(3) Burnett v. Smith, 93 Miss. 566, (572), 47 S. 117, (118); Wherry v. Latimer, 103 Miss. 524, (530), 60 S. 563, (565).

(4) State v. Hurd, 5 Wash. 2d 308, 105 P2d 59, (61).

(5) United States v. Amadio, 7th C.C.A. (1954), 215 F2d 605, (611).

Said judicial decisions are in harmony with the principles of sociology related, to-wit:

"In all phases of social and cultural life the influences of environment are potent." With respect to each individual, "The stimuli which plays upon him, especially those in the *early years of his life* determine the direction of his development, decide the nature of his career." With reference to one's mind, quoting, "it develops only in reaction to environing influences, in reaction to its immediate environment and to the intellectual and cultural content which it has built out of its environment. Hence mind always partakes of environment, and any analysis of mind will yield elements of its environment."

Encyclopedia of the Social Sciences, Vol. 6, pages 564-565.

"The habits of children that are the foundations of later sexual purity must be formed and their opposites carefully guarded against."

The Egyptians, 1920-1921, page 249.

"It is usually assumed that companions of his own age wield a vital influence in shaping of the adolescent self."

The Psychology of the Adolescent, by—L. S. Hollingsworth, page 183.

The actual patterns of children's behavior "are decisively shaped by extrinsic conditioning factors through social impress- the structure of their personalities is the result of both intrinsic and extrinsic factors."

Encylopedia Britannica, Vol. 5 page 469.

THE CALAMITY AND MISCHIEF OF NEGRO WITH WHITE AMALGAMATION HAS BEEN COMPETENTLY NOTICED JUDICIALLY AND SOCIOLOGICALLY.

Judicial determination holds that marriages, amalgamation, of the Negro with the white race brings down the superior white race to that of the inferior Negro race.

Wolfe v. Georgia Ry. & Elec. Co., 2 Ga.A. 499, 58 S.E. 899, (901 et sequence).

Cited with approval later, in 1930, by: Atlanta Etc. Co. v. Shipp, 170 Ga. 817, (824), 154 S.E. 243, (246).

This Court holds with respect to Negroes as being of the "African race—black race" "separated from the white by indelible marks" (p. 410) and clearly construes in the case cited hereunder, namely, when then considering language in the Declaration of Independence now so often quoted oppositely by racial school integrators, to-wit: "that all MEN are created equal" has never had in the particular of said word "men" as appears in the Declaration of Independence any reference thereby to any Negro. That no member of the Negro race is included or embraced within

the word "men" found within said quoted language as having been "created equal," or otherwise. This cited decision hereunder, correctly follows the accepted rules of the construction of language, that words used should be construed as having their meaning when used, and that such meaning excludes any Negro from said word "men" as was then such intention, by the framers of the Declaration of Independence, (1). Research has not discovered any modification in this decision, in such respect, or in any change of said accepted rule of the construction of words, or language, as having the meaning as when used.

(1) Dred Scott v. Sandford, 60 U. S. 393, (409, 410 and 426).

It is respectfully said that many further federal court adjudications could now be cited, too, in the nature of judicial determinations giving, and defining, the many specific and correct reasons, and philosophies, why Negro with white integration should not be the order of the day, so to speak, but such citation and mention would only extend the length of this brief and as this Court is as well aware of all of same as we are, it is respectfully considered no sufficient purpose would be served thereby. Therefore, we turn to sociology in this connection, to-wit:

In speaking of the Negro in the United States it "has, one-tenth of its population made up of a race that, however capable it may prove itself, cannot be absorbed by amalgamation without serious danger to racial vigor." (Page 378, infra, hereunder).

With reference to racial survival, namely, of our white population in the United States as considered in connection with the amalgamation of races (of. adyisability) "becomes a serious protest at the thought of amalgamating

with lower civilizations as in the case of the Negro.—These doubts, well founded in racial intuition, are fortified by reason." (Page 449, infra, hereunder).

"It is suicidal to admit within the national borders members of alien races unless it is clear that beneficial results will follow from racial amalgamation in connection with an assimilation of civilizations. Under present conditions the racial problem within the United States is exceedingly complex and one may well despair of any immediate solution. Had telic foresight characterized our civilization throughout the Nineteenth Century we might have avoided our worst problems *by checking the importation and multiplication of the Negro.*" (Page 451, infra, hereunder).

Sociology, Its Development and Applications, (1923) by—James Quayle Dealey, Ph.D., Brown University.

In the minds of many statesmen and social students the question is rising as to why the state (in respect to social ideals of marriage) should not go back one step farther (from the child entity itself) and concern itself actively with the *heredity of the child.* Before such a program can be effective, however, the people must be educated up to the necessity of founding a family on the right biological basis. No less important is it that each individual be brought to an appreciation of the importance of considering psychological and social factors also in the choice of a mate. (Page 154, infra, hereunder).

Social relationships are acquired as a result of *habitual companionship—the process of socialization is that process whereby the many are welded together into a unity.* (Pps. 273-4, infra, hereunder).

More important (than one's physical environment as in a certain territory or climate) in conditioning the develop-

ment of society—are the other *social groups* with which an aggregate of people come into contact. (Page 290, infra, hereunder).

Social degeneration comes about by the growth of degeneracy among the individuals who make up society. Just as a diseased member of the body may eventually destroy the individual, so a diseased part of society may be the cause of the *destruction of the whole body.* (Page 500, infra, hereunder).

Outlines of Sociology, by Blackmer & Gillin.

Sociology, Thomas Jefferson, with reference to Negroes:

"Nothing is more certainly written in the book of fate than that these (Negro) people are to be free; nor is it less certain that the two races (white with Negro) *equally free* cannot live in the same government. Nature, habit, opinion have drawn indelible lines of distinction between them. It is still in our power to direct the process of emancipation and deportation, peaceably, and in such slow degree, as that the evil will wear off insensibly, and their place be, pari passu, filled up by free white laborers. If, on the contrary, *it is left to force itself on, human nature must shudder at the prospect held up.* We should in vain look for an example in the Spanish deportation, or deletion of the Moors. This precedent would fall far short of our case."

Life Writings and Opinions of Thomas Jefferson, page 164, by B. L. Rayner. Pub. N. Y. 1832. Library of Congress, Class "E" 332, Book "R 26".

Sociology, Abraham Lincoln, with reference to Negroes:

"I will say, then, that I am not, nor ever have been, in favor of bringing about in any way the social and political equality of the white and black races, that I am not, nor

ever have been, in favor of making voters or jurors of Negroes, nor of qualifying them to hold office, *nor to intermarry with white people*, and I will say in addition to this that there is a *physical difference between the white and black races* which I believe will forever forbid the *two races living together on terms of social and political equality*,—and inasmuch as they cannot so live, while they do remain together there must be the position of superior and inferior, and I, as much as any other man, am in favor of having the superior position assigned to the white race."

Collected Works of Abraham Lincoln, Roy T. Basler, Rutgers University Press, 1953, pages 145-146, Vol. 3.

Abraham Lincoln, after becoming President of the United States, in his first annual message to Congress on December 3rd, 1861, in his message to Congress on March 6th, 1862, and lastly in his message to Congress on April 16th, 1862, included the subject of Negroes in the United States and in respect to them in the States and in the District of Columbia he advised and recommended as follows to-wit:

That all Negroes owned then as slaves be purchased from their owners on some mode of their valuation and to be paid for quoting "in lieu pro tanto of direct taxes, or upon some other plan to be agreed on," and that thereupon they, together with any free Negroes desiring to be included be colonized, quoting, "at some place or places in a climate congenial to them," (1), which, of course, would be Africa from whence they had been brought to the United States.

(1) Messages and Papers of the Presidents, Vol. 7, pages 3255, 3269 and 3274.

BIBLICAL SOCIOLOGY RELATED.

It is respectfully stated that irrefutable citations are above given from secular highest sources on the subject of sociology involved in this case. It is now undertaken to cite a higher source of sociology, indisputable to minds recognizing Biblical contents as the inspired word of God, with which no man may dispute or discount. These following such citations are from both the Old Testament and the New Testament of the Bible and, therefore, come from the basic authority of all believing and having faith in God regardless of race, or nationality, to-wit:

"Many have been and are being told that there is no Biblical 'support for state school segregation laws,' or 'Scriptual support for state segregation laws cannot be claimed,' (as is reported as being the words of a very long time personal friend, Brooks Hays, in his 1959 publicized address to the Southern Baptist Convention in Louisville, Kentucky) and that school integration should be favored because we are admonished, "Thou shalt love thy neighbor as thyself," Matt. 19:19, Lev. 19:18. The Bible also says, "Take ye heed every one of his neighbour, and trust ye not in any brother: for every brother will utterly supplant, and every neighbour will walk with slanders." Jer. 9:4. It instructs, "If thy brother trespass against thee, rebuke him," Luke 17:3, Matt. 18:15.

"*Who are our neighbors?* The New Testament gives the meaning and definition clearly, namely, one who shows mercy on another and who voluntarily assists another in time of distress (Luke 10:29-37), *not one demanding forced racial school integration, white or black.*

"What principles are laid down in the Bible with respect to segregation, separation of the races generally as well as

within public schools. Nations were divided in the earth after the flood, Gen. 10:32. The Lord 'scattered them (people) abroad upon the face of all the earth,' Gen. 11:8-9. He 'determined the bounds of their habitation,' Acts 17:26. The Lord separated his people from other people, Lev. 20:24, Ex. 33:16-17, I Ki. 8:53, Ps. 135:4 & Deut. 10:15. The habitation of the Negro race in Africa continued there until some of it was transported elsewhere by man, away from its natural location, which act of MAN produced the present dire problem of forced school integration in the South, and in all the United States, resulting from the violation of Divine selection and disposition of the black race in Africa, its natural place of life. *Man has always gotten into trouble when he opposed God.*

"As present federal judicial determination decreeing school integration stands upon its own selected authors of sociology, it is pertinent to examine Biblical authority on this subject. Even as to cattle and seed, such precept is "Thou shalt not let thy cattle *gender with a diverse kind*: thou shalt not sow thy field with mingled seed," Lev. 19:19. 'Thou shalt not sow thy vineyard with divers seeds: lest the fruit of thy seed which thou hast sown, and the fruit of thy vineyard, be defiled,' Deut. 22:9.

"With respect to mankind, the Most High divided to the nations their inheritance and set the boundaries of the people when He separated the sons of Adam, Deut. 32:8. Later, through Joshua, He advised that *association and intermarriage* between those of different nations can be snares, scourges and thorns in the eyes of mankind, until perishing from the good land given him by the Lord, Josh 23:3-13. With respect to such intermarriages "Neither shalt thou make marriages with them, thy daughter thou shalt not give unto his son, nor his daughter shalt thou

take unto thy son." Deut. 7:3; Ezra 9:12; Neh. 10:30. When there is such a marriage, it is part of an abomination profaning the holiness of the Lord (Mal. 2:11), because a transgression against God (Neh. 13:27) is a trespass against God. Ezra 10:2. "Keep thyself pure." I Tim. 5:22. God has likened his people to a noble vine He had planted, *wholly a right seed*, and has shown His displeasure at their *degeneration* by asking, "How then art thou turned into the degenerate plant of a strange vine unto Me?" Jer. 2:21. Jesus said that a corrupt tree does not bring forth good fruit. Mat. 7:17, Luke 6:43. The children of the same "tribe" or race *should marry each other*, so that their race's inheritance will not be removed to another. Num. 36:1-13. The teachings of St. Paul of Christianity to the Galatians advise that the Scripture teaches the principle of segregation or separation. Namely, that some are 'cast out' as an heir here on earth and others are not, and that regardless of either class, when those of both are (in a spiritual concept) 'baptised into Christ,' either they become (spiritually) 'one in Jesus Christ', leaving the remainder not so baptized cast out, segregated or separated to themselves. This is an example of the application of this principle both *physically* and *spiritually*. Gal. 4:30, 3:27-28, Gen. 21:10. Even in the end, Jesus says that He, Himself, will separate 'all Nations one from another,' (Mat. 25:32) and that every man shall be scattered to his own, John. 16:32.

"The above clearly shows, that the Bible, both the Old and New Testaments, teach physical separation of the races in or out of public schools and that one teaching otherwise is a 'false teacher' of whom St. Peter warned the people — those who would come bringing 'damnable heresies' (2 Pet. 2:1) and to whom St. Paul alludes, as to kind,

when he teaches us to 'Be not carried about with divers and strange doctrines.' Heb. 13:9."

Quoted from the book: Forced School Integration In The U. S. A. (1961). By Marvin Brooks Norfleet. Carlton Press, 84 Fifth Avenue, New York 11, N. Y.

Down to this point, it is respectfully said, it has been conclusively shown, sociologically, from both secular and religious competent sources, namely, the terrible and irrevocable detriment of Negro and white race amalgamation that will be the indisputable result of close, daily, association together of growing members of those two different races, as by their forced integration together in the public schools of Memphis, and of the United States. We think, respectfully, that it may be that the reason said Brown School Case decision completely ignores such permanent detriment to the majority white race involved is, that the burning subject of same was not raised by any party thereto. Certainly, such a pressing matter, and issue, is never to be brought out into the light of day for consideration by this Court, the opportunity for which it is respectfully urged is now respectfully presented to this Court to do, under the truth and facts related. It is respectfully asked, is there any white person who would not consider it to be a "detriment" to have a half Negro child or grandchild? For his or her white, in part, daughter or son, or grandchild, to present her or him with a half Negro lineal descendant? It is respectfully said, that those are the questions now related and involved, to be answered by this Court, in this case. It would be only one, if such a one there is of the white race, who approves of such mongrelization and could, but not understandingly, consider such racial admixture to be aught but an unnatural, ungodly, and diabolical detriment to the present majority white race, both its old, young

and all of it yet to descend therefrom. Such present and future corruption may now be prevented by only a new look at Negro with white school integration by this Court, before it is too late to head off and stop this presently proceeding influence, which if left to continue will bring about another, this nation, which then cannot ever, by any edict or means, be restored to a white integrity of person and intelligence. *This, it is respectfully stated, is the obvious and crying issue that supplicates high heaven and this Court for remedy in this case, now, at this time.*

It is respectfully now considered proper and material to point out that the Negro population of the United States appears in the total of 18,871,831, and that the total white population in the United States appears in the total of 158,881,732, at pages 251 and 256, respectively, of the World Almanac, 1962 edition. That the total of all the population of the United States appears in the grand total of 183,300,000, at page 251, of said World Almanac. That the materiality of Negro population in the North and West of the United States, with respect to the subject of this brief within cities of such areas, and regions, appears on page 251 of said World Almanac, to wit:

	Negro Population
New York City,	1,087,931
Philadelphia,	529,240
Detroit,	482,223
Chicago,	812,637
Washington, D. C.,	411,737
Los Angeles,	334,916

NEGRO INNATE PROPENSITY OF CANNABILISM.

If, perchance, it is respectfully said, there is any white person in the United States failing, for any reason, to see and consider the detriment to the majority white race ad

versely affected at Memphis, and elsewhere, in the United States by its mongrelization with the Negro race, as is above shown will be influenced and consummated by forced Negro with white student integration in public schools together, then, in the nature as of a last resort as may be needed and required to awaken such an individual to the stern realities involved by such racial integration, let's now take a calm look, and inquiry, at what said detriment truly embraces, in addition to all the other elements thereof, which may be viewed under the following quotations from the public speech made and directed to this part, which under the above cited authority is a proper subject of judicial notice, as follows, to-wit:

"When school integration has fused the Negro into our white race, it may never be recalled, can never be undone because such a mongrelized body, mind and soul may never be returned to its former condition as God made it and intended it to remain. And, as our present problem for consideration calls for some examination of the Negro with whom our white children and their descendants are designed by such racial integration to blend with and be corrupted by, I, therefore, give you now some indisputable facts, taken from world accepted authorities on the Negro. Allow me to say at this point that I have no so-called prejudice or hate toward any race; my sole position is just condemnation against bad leadership of any race including my own, which is English, Scotch and Irish. World, valued authorities, which I now cite to you by book and page number, may be read by you at any time, at the libraries which are open for all, as follows, to-wit:

"The American Negro's ancestors were captured in Central and Western Africa—The first to arrive on the mainland of North America were 'twenty Negars' brought to

Jamestown, Virginia, by a Dutch man of war in 1619. (1). Formerly, Negroes were confined to Africa, south of the Sahara desert. With the economic exploitation of the new world a vast but unknown number of them were shipped to America as slaves. Today there are two major centers of Negro population: Africa and America. (2). Cannibalism in the Negro race is not something only within the far distant past, but exists today as well as then. A Negro, wherever situated as to geography, is a Negro whether he is in Africa or in America. Just like a mule or horse here, if taken there, would be and remain a mule or horse. In this reference, as recently as in the local public press as September 29th, 1960, an Associated Press dispatch from Johannesburg, South Africa, advises us: . . . "A long time missionary to the Congo, the Rev. W. F. P. Burton, 74 years of age, says cannibalism is coming more and more into the open in the new African nations.

"With reference to very recent cannibalism in those new African nations as has been noted in the Dec. 4th, 1960 release from the Southern States Industrial Council of Nashville, Tennessee, information is given of one Negro leader: Leon M'Ba of Gabon had killed his mother-in-law and cut her up into chunks and sold her (to other Negroes) for meat for them to eat! Gabon is now a member of the U. N.!

"Said release also notes the reported incident about a Negro, M. Broka Bota, former deputy from the African Ivory Coast colony to the French Assembly at Paris. He returned to said colony, his residence, to campaign for its recently gained independence. He never returned to Paris. It is so reported that an investigation finally wormed the fact out of that tribe's chieftains that he had been eaten by his Negro constituents for the reason that they thought

by eating him they might absorb some of his qualities they admired! The Ivory Coast also is now a member of the U. N.!

"By Associated Press
"Elisabethville, Katanga.

"Two Evangelical missionaries—one a Briton and the other a New Zealander—were hacked to death by Baluba tribesmen in North Katanga last week, it was learned officially in Elisabethville today. They are Elton George Behrent Knaus, 50, of New Plymouth, New Zealand, and Edmund Hodgson, 62, of Blackpool, England.

"The missionaries are believed to have been the victims of cannibalism. UN troops searching since their disappearance have not found their bodies.

"UN troops told a reliable source that they had eye-witness account by tribesmen of how the missionaries were hacked to death by machetes. Both men had been in Katanga many years and were employed by the Congo Evangelistic Mission.

"Such has been the odious practice with Negroes in Africa for as long as we have had history to record same the most repulsive and degrading form of cannibalism is that of eating human flesh as a part, the main part, of the regular diet. The Negro tribes along the Guinea Coast southwards into the Kongo in Africa and for some distance eastward eat human flesh as food. It is treated just as other races treat animal flesh. Raids are made to capture prisoners, and they are herded and kept until wanted. Sometimes they are fattened just as other races fatten animals for the slaughter. (3). Simple food cannibalism is found in West Africa. (4). People of equitorial West Africa sold human flesh in their butcher shops." (5).

(1) Encyclopedia Britannica, Vol. 16, p. 194 (14th Ed.)
(2) Encyclopedia Africana, Vol. 20, p. 47 (1948 Ed.)
(3) Encyclopedia Americana, Vol. 5, p. 502 (1948 Ed.)
(4) Encyclopedia Britannica, Vol. 4, p. 745 (14th Ed.)
(5) Encyclopedia Social Sciences, Vol. 3, p. 172 (1930).

"Such is the kind of mixture that school integrators will despoil our descendants with, if not prevented, and by said cited respected authorities we know the innate propensities of the Negro in our midst, including that of cannibalism by the law of heredity from his ancestors in Africa, from whom he and his forebears have geographically been separated for only a short time in the history of the world, some 300 years or so. It cannot be gainsaid, that if those we have here now had remained there, they would still be, in all essentials, continuing in the practices and ways of their ancestors and their present descendants there now. Their nature remains the same, covered only by a thin veneer of their environment with our white civilization in this country. The virus of cannibalism is still within them and is ready to be further handed down to any so unfortunate to become their descendants here, most prominent of whom will be our white descendants brought about by racial integration, under the indisputable process of the operation of the well known rules and principles of sociology, if not avoided while there is yet the time and opportunity to do so."

Quoted from the public speech of December 16th, 1960, made at Jackson, Tennessee by the author of Forced School Integration In The U. S. A., (1961), pages 231-234.

It is respectfully stated that forced racial school integration may only be viewed in the light of a scheme, designed

to change man into a creature half white and black truly a step backward toward the original barbarity of the Negro race. The white man's present condition as a most important part of the whole has already been recognized by anthropologists, students of mankind. It is forecast that he and his present "civilization will come perilously near to barbarity" again in the future because of "significant alterations in man's social environments." Harry L. Shapiro, Curator of Anthropology at the American Museum of Natural History, in *The Illustrated Library of the Natural Sciences*, Vol. 3, pages 1731-2. If we put this problem to the test of pure science in the study of the future of man, we can only find that our such position is correct. If the white race's present condition is significantly altered with respect to its *social environments* specifically, through social association and intermarriage with Negroes its very civilization will be imperiled, and no peril could be more greater than its amalgamation with the Negro race.

RACIAL SCHOOL INTEGRATION SERVES COMMUNISM.

"The Daily Worker" mouth-piece of Communism in the United States on May 26th, 1928, then on its page 6, plainly states its aim now concerned, which is also that of the NAACP in the United States, which corresponding aims are, unfortunately, it is respectfully stated, are materially supported, whether intentionally or not, by the forcing of Negro and white students in public schools together, said aim of the NAACP being so well and commonly known, it is not deemed necessary to make specified citation thereof but as to the Communist Party in the United States said aim is now cited, to-wit:

"Full racial equality

"Abolition of all laws which result in segregation of Negroes.

"ABOLITION OF ALL LAWS AND PUBLIC ADMINISTRATION MEASURES WHICH PROHIBIT, OR IN PRACTICE PREVENT, NEGRO CHILDREN OR YOUTH FROM ATTENDING GENERAL PUBLIC SCHOOLS OR UNIVERSITIES."

The Daily Worker
May 26, 1928, p. 6.

It is respectfully stated that said Brown School Case decision forcing racial school integration in the United States irrefutably favors and serves such aims of both the NAACP and Communism. In such connection it may be said now, indisputably, that movant Memphis Citizens' Council, is completely dedicated by its duly adopted and published principles and by its policy, intent and purpose and exists in legal organization, quoting, "to oppose Communism" while well known leadership of the NAACP as in the instance of one of its more illustrious and famous architects and workers, Mary White Ovington, of New York, evidences NAACP advocacy of the same said principles advocated by the Communist Party as so appears in her revealing book "The Walls Came Tumbling Down," Harcourt, Brace & Company, Inc., publisher, New York, 1947, quoting, as follows, to-wit:

"We claim for ourselves every right—political, civil, and *social—we must come to treat the Negro on a plane of absolute* political and *social equality.* Out of these two statements the militant National Association for the Advancement of Colored People was born." (Page 100).

And, it is also publicly well known that W. E. B. DuBois,

blue eyed Negro (supra, pages 204 & 299) "honorary chairman" of the NAACP so-called appears to have publicly proclaimed in the National Guardian, the progressive newsweekly, 197 E. 4th St., New York 9, N. Y., in its issue of February 17th, 1958, its page 7, column 3, including; quoting, "*I seek a world where the ideals of communism will triumph . . . For this I will work as long as I live*" and it appears thereafter by the public press, Memphis Press Scimitar, in its issue of November 23rd, 1961 including, quoting, "*W. E. B. DuBois, 93 year old noted negro has joined the Communist Party just as its members are being required to register with the government. He has also been a co-founder of the NAACP and a recipient of the 1959 Soviet Lenin peace prize.*"

Under such circumstances, it is respectfully asked isn't it reasonably somewhat queer and unusual that the public at Memphis (and elsewhere of its circulation) has been advised by the public press, in published newspaper editorial comment that the NAACP is not a pro Communist organization? quoting, as follows, to wit:

> "The NAACP is not a pro-Communist organization."
> Memphis Press Scimitar, Aug. 16th, 1961.
> Its editorial, "Facts for Negroes and White to Face," its page A-6.

Racial school integration is a "pet" of Communism, because the Soviet philosophy, as is a matter of common knowledge, is to encourage anything that disrupts the peace and tranquillity in any free country, to produce trouble for its people and any dissension adversely affecting the status quo, in the belief that if there is agitated enough dissatisfaction, it might carry the people toward their aims, namely, an internatic nal conspiracy to subvert and change all nations to their state-controlled and Godless rule, desiring to impose their government on all free people

everywhere so that Moscow would be the political capitol of the world, with all bound thereto as nothing more than its economic slaves and vassals. Therefore, as Soviet leaders know the cleavage in the United States among its free people on the issue of racial school integration of the white and black races and fully realize the distress it is causing within our ranks, they encourage a continuation of insistence for school integration, knowing that if such evil plan can be made to work in the United States, its effect would be to decimate all the people for easier control by Communism. On this subject, some may be misdirected by others ensconced in a place of trust, even in the pulpit, and many listen to what comes out of the mouths of such sources, take it as true and then follow it rather than considering the subject and deciding the issue with their God given brains. This might be respectfully described, as the well known habit of many, to take what is handed out because it is too hard to think. It may not be departed, it is respectfully stated, that any entity causing the now projected white pure body of our coming future children to be born and arrive mongrelized as to race, neither white or black, a complete discord in God's plan of creation, *can be in no other such corruption to its intended integrity.* "Fie, for shame," is but an inarticulate exclamation in connection with such a process, not design.

THE MANY UNCHALLENGEABLE DREADFUL DETRIMENTS CAUSED TO WHITE STUDENTS BY THEIR FORCED INTEGRATION IN PUBLIC SCHOOLS TOGETHER WITH NEGRO STUDENTS.

The dreadful detriments accruing to white public school students now living, as well as to those yet to live and attend public schools at Memphis, and elsewhere, cannot be

more accurately described than to cite, as is a proper subject of judicial notice under authorities above given, what same are and will be as is validly documented showing Negro with white student integration at the "show place" of racial school integration, namely, in the public schools of Washington, District of Columbia, the capitol city of the United States. The following, in respect thereto, is based on the contents of the official congressional committee's "Report of the Subcommittee To Investigate Public School Standards And Conditions, And Juvenile Delinquency In The District Of Columbia, of the Committee On The District of Columbia, House Of Representatives, Eighty Fourth Congress, Second Session," Document 8554, printed by the United States Government Printing Office at Washington, 1957, for the use of the Committee on the District of Columbia, being a public document of the United States. Some of said report's contents are followingly abstracted, and quoted, having reference therein to the shown page numbers of said printed report, to wit:

1. School integration was inaugerated in the public schools at Washington, D. C., in 1954, on May 25th, only eight days after May 17th, 1954 the date of the rendition by this Court of its said decision in the Brown School Case. (Pages 1-2). It has been said that Washington was selected by school integrators as the supposed proper or favorable place to initiate the evil social experiment, we say of school integration, as a kind of "showcase" thereof. Much to the chagrin of such experimenters, instead of school integration showing any favorable results, its effects upon the student bodies, white teachers and the public school system itself became so appalling, demoralizing, intolerable and disgraceful, as appears within said official report, and it also ap-

pears therein that in advance of that investigation it had been determined to make same.

The following are a few of the contents of said official report, showing the serious detrimental effects brought about by the integration of Washington's public schools, which is now considered as a preview of such detriments reasonably to be expected at Memphis, and elsewhere, by the integration of Negro students with white students in the public schools, anywhere under the same circumstances, to wit:

1. The NAACP protested against the investigation being made, of conditions resulting from integration of Washington schools with Negro students therein with the white students. (Page 3).

2. Disciplinary problems in the integrated schools have been appalling, demoralizing, intolerable and disgraceful. (Page 24).

3. For the first time in the schools' history teachers had been required to police the corridors, playgrounds and cafeterias. Disorders in the schoolrooms have greatly reduced teaching efficiency and retarded the ability of students to learn. Police have had to be called on numerous occasions to the various integrated schools. (Page 24).

4. Since school integration, the proof showed much stealing, lying, cheating, fighting, vandalism and obscene language; "the vilest sex talk," dirty writing on the walls, foul and unspeakable language to teachers and vicious and obscene quarrels in classrooms. (Pages 24-25).

5. For the time time spoken of, the newspaper reported 7 cases of pregnancy, whereas there had been 27. (Page 26).

6. There were "boy-struck girls," disobedience of the

classrooms, failure to obey teachers and the carrying of knives. (Page 26).

7. "A Negro girl will stand in the aisle and dare a white girl to pass her." (Page 28).

8. "Prior to integration we did not have anything like the foul and obsence language we have had since the integration." (Page 28).

9. In speaking of Negro students: they show an "attitude of belligerance, sullenness, impertinence and aggression *In this third year of integration, problems are* increasing rather than lessening." (Page 29).

10. "We have degrading conduct. We did not have this prior to integration." (Page 30).

11. "We have had the problem of Negro girls going into boys' lavatory during the lunch hour; we did not have that before integration." (Page 30).

12. "Disciplinary problems have quadrupled since integration." (Page 31).

13. "In my section I have had pregnancy and relationships between boys and girls, *both Negro and white*." (Page 32).

14. The said investigating committee reported its findings, with respect to school integration at Washington, to-wit:

"Social Activity, Sex Problems and Disease."

"One of the dangerous and deplorable developments in the District of Columbia Schools is the sex attitude of the Negro, even down into the lower elementary grades. The fact that 13 little Negro girls, 6 years old and under, were

treated for gonorrhea in 1955 is only a sample of the sex attitude found in the District of Columbia.

"Teachers in the integrated schools reported deplorable conditions in sex contacts in their schools. Reports of attempted rape, assaults, chasing girls and even teachers. Negro girls soliciting boys at school, sex talk and suggestive talking and attempted *fondling of white girls*, and innumerable sex affronts were reported by the school personnel that was interviewed. Illegitimate children born to 15-year old girls increased 42% during the first year of integration over the previous year. The increase for girls under 15 years of age was 23%."

"The Department of Health reported 854 cases of gonorrhea alone among school children in 1955—97.8% were Negroes." (Page 33).

"*Virtually all social activities were abandoned after integration.* This move was initiated by the white students and *was a great loss to the school* because prior to integration they had a very happy and extensive social set up.

"There were many sex problems during the year following integration. The first evidence of this came about *when some colored boys began writing notes to white girls. The white girls complained of being touched by colored boys in a suggestive manner* when passing them in the halls.

"*One white girl left school one afternoon and was surrounded by a group of colored boys and girls. One of the colored boys put a knife at her back, marched her down an alley and backed her up against a wall. While the group debated as to whether they would make her take her clothes off*, she broke away and ran home." (Page 35).

As said report shows on its page 47, four of the six men

ber committee, including its chairman, subscribed to the following finding and recommended, to-wit:

"The evidence, taken as a whole, *points to a definite impairment of educational opportunities for members of both white and Negro races as a result of integration, with little prospect of remedy in the future. Therefore, we recommend that racially separate public schools be reestablished for the education of white and Negro pupils in the District of Columbia, and that such schools be maintained on a completely separate and equal basis.*"

It is respectfully said, that no language, or words, could show the dire detriments which will certainly arise against the majority white public school students at Memphis, or elsewhere, if or when Negro students are forced into the public schools with them, than by the explicit and clear language, or words, contained within said official report with respect to racial integration of the public schools of Washington, D. C. It does not seem, it is respectfully said, that any further comment is necessary, or required, in this particular in regard to our, so threatened, majority of white children and public school students related. *They, each and all of them, are now before this Court for protection, they as its wards and if as their guardian.*

MAY IT PLEASE THIS COURT:

Putting it in plain and unambiguous language it is most respectfully now maintained and asserted, that withholding of such prayed for protection would be tantamount to the sirring of a plow-stallion with an Arabian filly or of a noble-stallion with a dray mare—which not even a horse breeder would consider. Has the time come when the majority white children of the United States have become of less value than its horses? *This Court, it is respectfully*

said, now has the task of answering said question by its decision it will render in this case.

NOW, THAT THE CASE HAS BEEN MADE AGAINST NEGRO WITH WHITE STUDENT INTEGRATION IN PUBLIC SCHOOLS TOGETHER THE CONTRARY DECISION IN SAID BROWN SCHOOL CASE AND ITS SUPPORT ARE NOW DISCREDITED AS IS A LITIGANT'S RIGHT TO DO WITH RESPECT TO THE ADVERSARIES' CONTENTIONS IN LITIGATION.

The above premise is now adverted to, namely, that said Brown School Case decision is not sound, and although it is garbed in judicial dress it has become to many, reasonably questionable or bewilderingly and honestly considered suspect, or vulnerable, *supra*. It is the sole author of all the distress existent in its connection, and of all the present and future detriments which have arisen thereby, and will continue to arise because of it in all the years ahead to the majority white children public school students and to the overwhelming white race population of this country, the United States, if left alone as it now is to mongrelize and mix the Negro with the white people of this nation. Heretofore, it is respectfully stated, that the most vivid imagination could not have conceived of any such emergency presenting itself, whereunder it would become necessary and required to plead for the welfare and preservation of the integrity of the present and to come white citizens of the United States. That any such argument, or necessary defense, would ever become mandatory on behalf of the white unsuspecting children of this country. But, it may not be disputed, such emergency has now presented itself under the strange and frightening contents of said Brown School Case decision. Such die has been cast by that

sociological decision, destroying all then, and theretofore, opposite legal adjudication relative to the same subject, rendered earlier by this Court and other respected courts both state and federal. Comparatively, it is respectfully said, the Brown School Case decision is like the North being suddenly referred to as the South, or vice versa, because some astronomer's magnetic-needle had, alone, reversed its direction, by error, even if inadvertently or unconsciously done. Regardless of such cause, the mistake or deviation, and the penalty thereof would still exist, regardless, and does now, thereby.

It is respectfully submitted, that the said Brown School Case decision is in the nature of a revolutionary unheralded announcement that physics teaches things subject to Newton's law of gravity, when released in mid-air, fly upward rather than fall downward. Or, that water runs up a hill instead of down it to its level. That 2 times 2 equals 5, not 4. That *Black* is *White*, etc., etc. Yes, it is most respectfully said, that decision is without credibility and discredits itself because of what has been set out above and for the following reasons, with respect to which it is respectfully prayed that each be now considered with open and unprejudiced minds, to-wit:

1. The rendition of said Brown School Case sociological decision has, itself, produced the present exigency for this Court to now, in this case, adjudicate either in favor of or against the vast and overwhelming majority of white people of the United States, where on the other side the minority of Negro people are exclusively concerned under this Court's favorable, only to them, to date adjudication in said Brown School Case. It is respectfully pointed out, that this Court, unquestionably, fathered such exigency it is now confronted by.

2. It is respectfully said, that said Brown School Case decision is an apparent and obvious violation of the principles of democracy, as in the United States, wherein the plan of government is for the majority to rule, and be served.

3. It is respectfully stated, that said Brown School Case decision is incompetent in the United States because it serves only a minority, in the figurative sense that the said minority "tail wags the (white majority) dog."

4. It is respectfully said, that said Brown School Case decision is a formula for the corruption, and mongrelization, of the great white majority of people of the United States and in such stance is a real poison to degrade the responsible white people constituting the overwhelming majority and percentage of taxpayers, downward to African-white hybrids of reduced intelligence, social status, and of little support of this country's future progress, development and welfare.

5. It is respectfully stated, that said Brown School Case decision clearly ignores and violates the yet unrepealed 10th Amendment to the U. S. Constitution because the Federal Constitution withholds, and does not give or grant to the federal government any power with respect to education or schools, left thereby, as internal affairs exclusively to the several states. The amendment reading, as follows, to-wit:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people."

Said Amendment 10 has been generally construed by this Court, as follows, to-wit:

"It is a familiar rule of construction of the Constitution

of the Union that the sovereign powers vested in the State governments by their respective constitutions, remained unaltered and unimpaired, *except so far as they were granted to the Government of the United States.* That the intention of the framers of the Constitution in this respect *might not be misunderstood*, this rule of interpretation is expressly declared in the *tenth article of the amendments.*"

Buffington (Collector) v. Day, 11 Wall. 113, 124.

Notwithstanding, it is respectfully said, that the matter of education has never been granted by the several states to the Federal Government under the Constitution, or otherwise, as is now cited, to-wit: "Education is purely a matter of state concern, and no rights, powers, or duties concerning it have been either expressly or impliedly granted the federal government with the limitations of the Tenth Amendment to the Constitution of the United States," State ex rel. Steinle v. Faust, 55 Oh. App. 370, 9 N. E. 2d 912, (914), while, nevertheless, and notwithstanding, said Brown School Case decision of this Court exists in contravention of the 10th Amendment, and the following decisions of this Court, to-wit:

This Court, in speaking by Chief-Justice Taft has held, with respect to a state operating public schools for colored and white pupils to attend separately to gain their respective educations, that such separate educational facilities, quoting, "has been many times decided to be within the power of the *state legislature* to settle without intervention of the federal courts under the Federal Constitution," including under the 14th Amendment thereto, (1). It is here noted, that state legislative enactment (2) and state constitutional provision (3), both prohibit interracial schools in Tennessee, as well as within many other states.

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(1) Gong Lum v. Rice, 275 U. S. 78, (85-87), 48 S. Ct. 91, 72 L. Ed. 172.
To same effect:
Cumming v. Richmond County Bd. of Ed., 175 U. S. 528, 545.
United States v. Buntin, 10 Fed. 730, 735;
Wong Him v. Callahan, 119 Fed. 381.

(2) Sec. 49-3701, Tennessee Code Annotated.

(3) Art. 11, Sec. 12, Constitution of Tennessee.

It is respectfully considered, that this is the point herein to make the following reference to the descriptio personae, "*supreme law of the land*," which term is in such frequently observed use, these days, by racial integrators, with respect to the contents of said Brown School Case decision. Firstly, in such connection, it is respectfully pointed out that the U. S. Constitution, our highest legal authority, gives a very different definition or meaning of said term, namely, that the U. S. Constitution, and the laws of the United States which shall be made in pursuance thereof, (enacted by Congress, under Sec. 1 of Art. 1 of the U. S. Constitution), shall be the "supreme law of the land," 2nd par., of Art. 6 of the U. S. Constitution, which exclusive definition of said term is this Court's adjudged definition thereof also, includingly by its decision in the case of State of Florida v. Mellon, 273 U. S. 12 (17), 47 S. Ct. 265, 71 L. Ed. 511, holding—that it is law of the United States, passed by Congress pursuant to its Constitution, that is the "supreme law of the land." We, therefore, very respectfully say, that if the contents of said Brown School Case decision is to be viewed as "law" that it is unconstitutional, and void, of no legal effect. And, in such aspect, would be unconstitutional as "law" of any kind, because promulgated by the

judiciary instead of the legislative department of the Federal Government. It is the duty of the courts only to judge, Chisholm v. Georgia, (U. S.) 2 Dall. 419, 433, it being axiomatic that courts have no power to *legislate*, and in this connection it may be respectfully stated that this Court has affirmed the holding, namely, that it is not the province of the judiciary "to attempt to inaugurate great *social* (or political) *reforms*," 12 C. J. (Const. Law) Sec. 387, page 884, note 6 citing, Matter of Bradwell, 55 Ill. 535, (aff. 16 Wall. (U. S.) 130, 21 L. Ed. 442), into which category of reforms we respectfully say the said decision in the said Brown-School Case indisputably falls, and for such reason, also, is proscribed.

Under such circumstances, and judicial determinations, it is respectfully said that said Brown School Case decision violates the time honored adjudications, which when examined, show its invalidity, some of which are now given, to-wit:

"The Federal government derives its authority wholly from powers delegated to it by the Federal Constitution, (1). The reserved powers of the states and of the people were emphasized in the Tenth Amendment to the U. S. Constitution, namely; 'The powers not delegated to the United States by the U. S. Constitution, nor prohibited by it to the states, are reserved to the States respectively, or to the people," (2). The Federal government is one of enumerated powers, those not delegated to the United States by the U. S. Constitution nor prohibited by it to the states, are reserved to the states or to the people. The U. S. Constitution is not a statute, but the supreme law of the land, and the powers conferred upon the Federal government are to be reasonably and fairly construed, with a view to effecting their purposes. But recognition of this

principle cannot justify attempted exercise of a power clearly beyond the true purpose of the grant, (3). *Internal affairs* of states are reserved to states not having been granted by the U. S. Constitution to the Federal government for any supervision by it, (4). With reference to the 10th Amendment, the holding of the Supreme Court has been: "This Amendment—disclosed the widespread fear that the national government might, *under the pressure of a supposed general welfare*, attempt to exercise powers which had not been granted. With equal determination the framers intended that no such assumption should ever find justification in the organic act, *and that if in the future further powers seemed necessary they should be granted by the people in the manner they had provided for, amending the U. S. Constitution*, (5)."

(1) Graves v. People, etc., 306 U. S. 466, 59 S. Ct. 595, (596), 83 L. Ed. 927.

(2) Bute v. People of State of Illinois, 333 U. S. 640, 68 S. Ct. 763, (769), 92 L. Ed. 986.

(3) Railroad Retirement Board v. Alton Ry. Co., 295 U. S. 330, 55 S. Ct. 758, (761), 79 L. Ed. 1468.

(4) Bartemeyer v. Iowa, (U. S.) 18 Wall. 129.

(5) Kansas v. Colorado, 206 U. S. 46, (90).

Forced School Integration In The U. S. A. (1961), supra, pages 154-155.

In conclusion, with reference to the 10th Amendment to the U. S. Constitution, it is to be remembered that it (together with the preceding Amendments 1-9) were not declared to be in force until December 15th, 1791, whereas the U. S. Constitution, itself, had been duly signed on September 17th, 1787, thereafter being resolved into opera-

tion by the Continental Congress on September 13th, 1788. Before either of said dates, and happenings, architects of the U. S. Constitution considered its adoption would leave internal affairs of the states intact, free from federal jurisdiction. As above stated, the Federal Constitution does not contain any reference to the subject of schools or education. The intended result of such absence therefrom is defined in "The Federalist" in its fourteenth essay of November 30th, 1787, authored by James Madison (1751-1836) member of the Constitutional Convention at Philadelphia and called "the master builder of the Constitution," thereafter becoming president. He wrote in the eighth paragraph of that essay seeking ratification of the Constitution by the several states that "the general government (federal government) is not to be charged with the whole power of making and administering laws. Its jurisdiction is LIMITED TO CERTAIN ENUMERATED OBJECTS—subordinate (state) governments can extend their care to ALL THOSE OTHER OBJECTS which can be separately provided for, WILL RETAIN THEIR DUE AUTHORITY AND ACTIVITY." It was then, later, to additionally impress such intent forever in the Constitution itself, its said Amendment 10 was duly adopted. It is earnestly submitted, that all of same is historical fact, not subject to question of any kind from any source.

6. It is respectfully stated that the racial descent effect of said Brown School Case decision is a crime against God's plan of creation, human succession and of nature, because of its baleful influence and power to change and corrupt the integrity of the majority white race's descendants and progeny in the United States. In such aspect, the decision is miscegenation, itself.

7. It is respectfully said that said Brown School Case

sociological decision is in direct conflict with and violates the prior adjudged principle by this Court, that it cannot make such decision, to-wit:

"It is not within our competence to confirm or deny claims of social scientists as to the dependence of the individual on the position of his racial or religious group in the community."

Beauharnais v. Illinois (1952), 343 U. S. 250, (263).

Note: Said Brown School Case decision contrary to the holding in said Beauharnais v. Illinois Case was very shortly thereafter rendered by this Court, on May 17th, 1954, no mention in the latter of the former. As the status related now is, it is respectfully submitted, the later said Brown School Case decision is in direct conflict with the only slightly earlier Beauharnais v. Illinois Case decision as is above quoted from, because said later decision is—a *sociological one*, based on the claims of social scientists named, and cited therein at its annotation 11, at the bottom of its page 494.

With respect to said Brown School Case decision, the Honorable James F. Byrnes, former Associate Justice of this Court is reported to have said, in the Congressional Record, May 24th, 1956, including the following, to-wit:

"We can only speculate as to how the Court reached its decision. In that speculation, it is interesting to read in the 'Harvard Law Review' of November, 1955, an article entitled, 'The Original Understanding and the Segregation Decision,' written by Alexander M. Bickel, who, according to the 'Review,' was the law clerk to Mr. Justice Frankfurter during the October term, 1952, when the case was first argued. After a lengthy resume of the evidence, the writer states:

The obvious conclusion to which the evidence, thus summarized, easily leads is that Section 1 of the Fourteenth Amendment, like Section 1 of the Civil Rights Act of 1866, carried out the relatively narrow objectives of the moderates, and hence, as originally understood, was meant to apply neither to jury service, nor suffrage, *nor anti-miscegenation statutes, nor segregation.* This conclusion is supported by the blunt expression of disappointment to which Thaddeus Stevens gave vent in the House."

And later as so reported, that Judge Byrnes said, "*The Court not only ignored the Constitution and its own decisions, but, in establishing a policy for schools, ignored the record in the case*," in speaking of the contents of said Brown School Case decision.

8. It is now respectfully submitted that said Brown School Case decision is erroneous because it is, when reasonably considered, obviously shows it bottomed and standing for its support on the "equalitarian dogma," to-wit: *that except for environmental differences, all races are potentially equal in ability and differ only in their opportunity to achieve*, as so defined by Henry E. Garrett, Ph.D., nationally known psychologist, formerly the head of the department of psychology at Columbia University in New York, and a past president of the American Psychological Association, in his article on the question of equality of the races appearing in the summer, 1961, issue of the quarterly publication "Perspectives In Biology and Medicine," published by the University of Chicago Press, Chicago, Illinois.

Dr. Garrett's said article is hereby cited in full for respectfully asked judicial notice by this Court, which erudite composition, facts and observations therein are deemed to emasculate the "equalitarian dogma," which he refers

to that the allegedly scientific groups claim they have "proved!" To the religious groups who accept such proof and, thereon, assert the belief in racial differences implies "superiority" and "inferiority" and is unchristian, shameful and blameworthy. That each camp supplements the other, the social scientists turning to moral denunciation when their evidence is feeble, and the religions fall back on "science" to bolster up their ethical preachments. That from both sources, the American people for more than 30 years have been barraged by such propaganda unrivaled in its intensity and self righteousness. That the installation of such dogma has reached the stage that it is not to be questioned without penalty to young scientists believing otherwise whose careers would be jeopardized if challenging it, and are threatened to be silenced otherwise. He calls attention to the many college students who have been indoctrinated by this dogma, and parrot it without competent familiarity with the evidence. He points out, with respect to the public indoctrination of the equalitarian dogma that it comes thereto by the Northern press, magazines, radio and TV, all confidently proclaiming equalitarianism. He logically gives the sources accounting for the shift from the general belief in native racial differences to wide spread erroneous acceptance of the dogma.

He names the most potent source of the equalitarian dogma, to be Franz Boas, who came to the United States from Germany in 1866, and taught for years the subject of anthropology at Columbia University, 1899-1936. That he, and his followers, have discounted any evidence tending to show that "Negro-white" differences may NOT be environmentally determined. That such conclusions, though confidently announced, are often only subjective and unconvincing. Dr. Garrett teaches that "psychological tests" are

the best, for determining racial differences. (Note: it is irrefutable that the mind of man dictates his life, actions and destiny. It is submitted, that Dr. Garrett is correct in his said teaching, that the kind of mentality one has must be looked at to determine the related differences, man as to man and race as to race. That the same is true in the animal kingdom, some being more intelligent than others, i. e., the horse or dog as distinguished from the laughing-hyena or wild-cat.). His comparisons, psychologically, as between the Negro and the white man, on exhaustive mental tests of both as noted by him in his said article are highly illuminating with respect to the I.Q.'s of the average Negro and the average white person, made on subjects of diverse kinds, including, preschool children, grade and high school pupils, college students, gifted and retarded children, soldiers, delinquents, racial hybrids, and Negro migrants. The reported results show a high percentage of such points in favor of whites, and in conclusion thereon he states "it seems clear that the evidence from psychometrics, intelligence testing, does not favor the equalitarian dogma; in fact, just the opposite." And, he concludes such part by stating, "*At worst, the equalitarian dogma is the scientific hoax of the century.*"

It appears true and correct, it is respectfully said, that said Brown School Case decision rendered by this Court is based, in principal part, on said "equalitarian dogma," because on the bottom of its page 494 the Court at its annotation 11 cited as authority therefor, quoting, "And see generally Myrdal, An American Dilemma." Said author being Gunnar Myrdal. Myrdal, in turn, himself, in his said book "An American Dilemma" bases it on said anthropologist, Franz Boas, referred to by Myrdal as an anthropologist who had already come out against arguments "for ra-

cial differences," in respect to radically different "environmentalist sociology," its pages 90-91. Therefore, so following, teaches himself that "environment" has been made "supreme" and on such premise he says that the equalitarian doctrine as to mankind, is his espoused subject, pages 83-84. Myrdal's theories and teachings in his said book includes the following, which it is most respectfully asserted in view of the logical and valid thesis of Dr. Garrett, aforesaid, is not even good nonsense, to-wits that in the study of mankind it should be "freed from the traditional discussion of racial traits" and in such place "rather look on environmental factors and their efforts as the main objects for study," in which connection Myrdal says that with respect to "differences in performance on intelligence and personality tests can no longer be answered by conceiving of certain inherited traits as constituting independent variables which can be thought of as isolated," pages 151-152. Thus, in an instant, with his writing, *he undertakes to do away with, or conceal, the indispatable principle of heredity, Racial heredity.* We earnestly submit, such discourse is preposterous. Myrdal does not have the power to destroy the common knowledge process that *"like begets like."* His premise is biologically untenable and absurd.

It might be material here, to respectfully say, that said Myrdal and the other named persons at said annotation 11, K. B. Clark, Witmer and Kotinsky; Deutscher and Chein, Chein, Brameld and Frazier, do not appear of such significance in their fields of endeavor to even appear in any biographical reference in the following three outstanding considered world authorities, namely, The World Book, Encyclopedia Americana, or Encyclopedia Britannica, in their respective 1956 and 1961 editions.

As said persons, cited with evident approval by this Court in its rendition of the said Brown School Case decision at said annotation 11 on its page 494, we respectfully quote again from former Associate Justice Byrnes, within the Congressional Record, May 24th, 1956 in their connection, to-wit:

"Counsel had no opportunity to cross-examine these psychologists as to their qualifications. However, in the United States Senate on May 26, 1955, Senator Eastland, chairman of the Senate Judiciary Committee, submitted an amazing record of several of the authorities cited by the Court. He said: 'Then, too, we find cited by the Court as another modern authority on psychology to override our Constitution, one Theodore Brameld, regarding whom the files of the Committee on Un-American Activities of the United States House of Representatives are replete with citations and information. He is cited as having been a member of no less than 10 organizations declared to be communistic, communistic-front, or Communist dominated.'

"As to E. Franklin Frazier, another authority cited by the Supreme Court, Senator Eastland said, 'The files of the Committee on Un-American Activities of the United States House of Representatives contain 18 citations of Frazier's connections with Communist causes in the United States.

"In support of its findings, the Court said, "See generally Myrdal, 'An American Dilemma, 1944' I have seen it. On page 13, Professor (Gunnar Karl) Myrdal writes that the Constitution of the United States is 'impractical and unsuited to modern conditions' and its adoption was 'nearly a plot against the common people.'—

"Senator Eastland also listed some of those who were associated with Myrdal in writing his book. He stated

that the files of the House Committee on Un-American Activities show that many of Myrdal's associates are members of organizations cited as subversive by the Department of Justice under Democratic and Republican Administrations.

"I am informed by the Senator that no member of the Senate and no responsible person outside of the Senate has challenged the accuracy of his statements on this subject."—

And, "loyal Americans should stop and think when the executive branch of the Federal Government brands as subversive organizations whose membership includes certain psychologists, and the Supreme Court cites those psychologists as authority for invalidating the constitutions of 17 states of the union."

And, "some advocates of integrated schools shudder to think of anyone's criticizing a decision of the Supreme Court or, certainly, this decision of the Court. Well, whenever a member of the Court dissents from the majority opinion, he expresses his views and criticizes—sometimes in vigorous language—the Court's opinion.—

"The decisions of the Supreme Court must be accepted by the courts of the United States and the States, but not necessarily by the court of public opinion. The people are not the creatures of the Court. The Court is the creature of the people."

For another complete emasculation and expurgation of the "equalitarian dogma" or doctrine, this Court's attention is respectfully called to, and asked to notice judicially, the learned composition on the printed pages of the book, "Race and Reason, A Yankee View" by Carleton Putnam, published by the Public affairs Press, Washington, D. C., in

1961. It is of the highest caliber and has an introduction on its pages VII-VIII by R. Ruggles Gates, M.A., Ph.D., D.Sc., LL.D., F.R.S., said Henry E. Garrett, Ph.D., D.Sc., R. Gayre of Gayre, M.A., D.Phil., D.Pol.Sc., D.Sc. and Wesley C. George, M.A., Ph.D. Its Library of Congress Catalog Card is No. 61-8447.

It is respectfully stated, that the time has passed for any indoctrination of the spurious "equalitarian dogma" or doctrine to remain effective longer. And, without it, there are no legs for said Brown School Case decision to further or longer stand on.

9. It is respectfully stated that in addition to the "equalitarian dogma" or doctrine not being a valid support for said Brown School Case decision in an I.Q. (intelligence) aspect as is above shown, that dogma or doctrine is also shown by the following highly competent evidence to be equally deficient in such support with respect to the Negro, physically, in comparison with members of the white race. This, may be respectfully pointed out with respect to blood which is perhaps the most important physical element in both Negro, and white bodies by the following quotation, to-wit:

"You will recall how doctors disbelieved there were germs or that sterilization of surgical instruments killed them. The record of such instances is extensive. All present physicians are fully aware of it, as well as students of the past. (Note: it is a matter of historical knowledge that it took about 100 years for the medical world to approve and heed the teaching of the great bacteriologist, Louis Pasteur (1822-1895), member of the French Academy, that surgical instruments should be sterilized against germs before contact with human bodies). A physician now would not even remove a splinter without first sterilizing his instrument!

"The truth of this blood difference (of the Negro and white people) is finally being recognized in medicine, although there are still those who resist the idea, (just as in said Pasteur instance). An outstanding example of this recently occurred in the United States—I refer to a scholarly paper on this aspect of blood by Dr. John Scudder, a professor at Columbia University College of Physicians & Surgeons. He submitted his paper in Chicago at a meeting of the American Association of Blood Banks in November, 1959, according to the Commercial Appeal, Memphis, Tennessee, of November 12th, 1959.

"The newspaper account stated that the hospital affiliated with Columbia University does not now even use the system of racially grouped blood for transfusions. It also states that Dr. Scudder's inquiry into this subject to determine the truth with respect to such physical differences resulted in his recommendation that the hospital establish the 'giving of blood transfusions according to race.' The hospital stated, 'Dr. Scudder presented statistics in support of a relationship between sensitization and interracial transfusions. His views, of course, command earnest, deliberate consideration.—Dr. Scubber maintained such cases (developing a harmful reaction in instances) would be less likely if transfusions came from a member of the patient's own race. That inter-racial blood transfusions are 13 1/2 times more hazardous to the patient. See 'Safer Transfusions Through Appreciation of Variants In Blood Group Antigens In Negro and White Blood Donors' by John Scudder, M.D., D.Med.Sc., in Journal of the National Medical Association, March, 1960, Vol. 52, No. 2.

"Dr. Scudder advised in a letter to me dated November 16, 1959: 'I am trying to see whether there is a suitable means of meeting the large volume of requests for the text

(of his paper). He enclosed the bibliography in connection with his studies, listing fifteen books by as many authors. *So, on this too, the light of day is dawning*, and on the basis of the self-evident truth of Dr. Scudder's position, from his study, research, experience and the basic authorities he cites for support, disbelievers will, no doubt, have to come to terms with the truth"—in respect to the physical difference of the blood of the Negro and white races.

Forced School Integration In the U. S. A., (1961), pages 106-107.

Furthermore:

Sickle cell anemia—" A disease marked by anemia and by ulcers and characterized by the red blood cells of the patient acquiring a sickle-like or crescentic shape in vitro. The disease seems CONFINED *to the Negro race and it is hereditary.*"

The American Illustrated Medical Dictionary, By Dorland, 23rd Ed., 1957, page 80.

"Sickle cell anemia—*That affecting Negroes* and dark skinned individuals, usually hereditary. It is characterized by the crescentic form assumed by the erythrecytes after their removal from the circulation."

Blakiston's New Gould Medical Dictionary. Page 72, 2nd Ed., 1956.

Sickle cell anemia: "*hereditary and familial hemolytic a., peculiar to Negroes* characterized by elongated and curved, crescent-shaped or sickle-shaped erytrocytes, *evidence of abnormal destruction of blood*, and active hemopoiesis."

Stedman's Medical Dictionary, 20th Ed., 1961, page 97.

"Dr. Cyrup C. Sturgis, Chairman of the Department of Internal Medicine, University of Michigan Medical School writes: 'This type of blood disease is *limited almost entirely to persons of the Negro race or those with an admixture of Negro blood.*"

"Through his research on this issue, Dr. M. A. Ogden has become quite alarmed over the seriousness of this *hereditary Negro blood disease* AND THE EFFECTS INTER-MARRIAGE BETWEEN NEGROES HAVING THE DISEASE EITHER IN ITS ACTIVE OR INACTIVE FORM WITH WHITES WOULD HAVE ON FUTURE GENERATIONS."

Quoted from bulletin of
"Better Health."

A very impressive list of physical characteristics which have been compiled, none of which apply to the white man but do to the Negro race is now quoted, to-wit:

"The Negro:

(1) Hair felts like wool, not true human hair.
(2) Ape groove in skull.
(3) Mellon shaped head.
(4) Small brain, 35 ounces.
(5) Everted lips.
(6) Animal smell.
(7) Pelvis slants forward.
(8) Color black.
(9) Short ape thumb.
(10) Big hand.
(11) Round shin bone.
(12) Small high calf.
(13) Thick weak lower limbs.

(14) Long arms.

(15) Protruding heel bone.

(16) Very large feet.

(17) Flat wide nose.

(18) Thick skull closes early, prevents brain from developing."

Said list points out that said listed physical traits, are found to be common in both Negro and the ape.

Cited from, the newspaper:
The Thunderbolt, (nationally distributed).
Birmingham, Alabama
Issue No. 32, July, 1961.

It is now respectfully pointed out that intelligent people of the United States, and elsewhere, correctly know it is false that all men are equal, environment or else considered. A vivid instance of such proof is a very recently reported statement to such effect by one of our English cousins, of the highest attainment and of world reputation and recognition, that of Field Marshal Viscount Montgomery, on May 14th, 1962, made at London in the House of Lords by him incidental to his opposition to proposed legislation which if enacted (but which was rejected by a 41 to 21 vote in said body) would have outlawed racial discrimination in British hotels and boarding houses, quoting, to-wit:

"*People of different colors* cannot be converted into a *homogeneous whole by acts of parliament nor by the exhortations of idealists. The hard fact is that all men are not equal.*"

United Press International Dispatch.
Headed London. In Memphis Press Scimitar, its issue of May 15th, 1962.

10. It is respectfully said that a widely advertised instance with national publicity given thereto effort, by the NAACP agents and counsel seeking the kind of decision rendered in said Brown School Case appears to cast a shadow upon its contemporary circumstances. The same, as was covered by an article in the U. S. News & World Report, on its pages 86-88, of its issue of February 5th, 1962, shown as being by Dr. Alfred H. Kelly, professor of history, Wayne State University of Detroit, Michigan.

Said article represents itself to be "an inside story" with respect to the time before and incidental to the rendition of said Brown School Case decision.

Professor Kelly appears therein to have been called in to work in the effort to produce such a decision by Thurgood Marshall, then general counsel of the NAACP, by Kelly's research and report on the question of the intent of those who prepared or framed the contents of the presently called 14th Amendment to the U. S. Constitution, with particular reference to such intent, if any, with regard to the subject of racial segregation in public schools. It was desired, if it were possible, to destroy the concept of the long time adjudged and followed Plessy v. Ferguson Case decision holding by analogy that "separate but equal" facilities in public schools satisfied the provisions of the 14th Amendment. Said Plessy v. Ferguson, 163 U. S. 537, 16 S. Ct. 1138, 41 L. Ed. 256.

Said Dr. Kelly's article shows at the bottom of its page 88 as cited, that its contents are from his address, public speech, he made on December 28th, 1961, before the annual meeting of the American Historical Association, at Washington, D. C., and consequently it is respectfully pointed out that, therefore, because being contents of such speech, it is subject to judicial notice on such account, as well be

cause being part and parcel of the subject of sociology related herein, in connection with the sociological decision rendered by this Court in said Brown School Case.

Dr. Kelly, evidently not a lawyer and aware of amenities of the legal profession, in the aspect of lawyer to Court, appears to speak as if he knew several of this Court's minds, namely, that some members disapproved of "Court-made fiat" but, nevertheless, *that this Court desired to "dispose" finally with its former said holding in the Plessy v. Ferguson Case! under a new and opposite interpretation of the 14th Amendment* but that consideration of such action, was distressing to contemplate because of the "apparent historical absurdity" to so adjudicate! and if so doing this Court would be "embarrassed" by criticism that it had *legislated* to such effect! We respectfully say, that our long practice of the law has not yet acquainted us with any lawyer who has undertaken to so speak, the minds and intentions of any Court before which any litigation had pended, or pends. But this initial, to us, such instance clearly appears by the NAACP's said agent historian from his own reported words.

Dr. Kelly proceeds even further, in representing this Court, to-wit: that in its consideration of said Brown School Case then, toward determination, that this Court was calling on "learned counsel" of the NAACP, et al, to bring forth before it in said case a "*plausible historical argument*" that would vindicate a decision therein proscribing and destroying state laws requiring separate public schools for Negroes and whites, under, if possible, the provisions of the 14th Amendment which had always been construed otherwise by this Court, for some sixty years, to then. Even if such proscription and destruction had to be promulgated by this Court, "*by judicial fiat.*"

Kelly further advises, that the NAACP's such effort by himself and others so engaged therefor, in the preparation of its brief favoring public school desegregation in said Brown School Case was done and performed with the knowledge, and in the face of history showing that the Civil Rights' Act of 1866 had been redrafted before enactment so Congress would not thereby subject itself to embarrassment, namely, that the act, when passed, embraced attack against "State segregation laws, including those requiring school integration!" That in such effort, it would not be safe to expose specifics of related history on the subject with respect to the framers of the 14th Amendment because the NAACP's position in the then undecided said Brown School Case "might best be cast in very generalized terms, *with a deliberate avoidance of the particular.*" Said word "avoidance" amounting by such process to "concealment," we respectfully say. And, it is learned from said article, that such was the character of the NAACP brief before this Court, in said Brown School Case, and as used by said Thurgood Marshall in his oral argument before this Court in that case.

Dr. Kelly further tells all, that the decision in said Brown School Case followed by its holding the 14th Amendment ruled out, as unconstitutional thereunder, state laws providing school segregation, "junking" all federal decisions to the contrary on "straight-out sociological grounds" considering only the Negro race so involved. That type of decision being made because research of related history "resulted in a general inability on the part of the NAACP to make a plausible case—shown, in short, *that the Fourteenth Amendment clearly and obviously had not been intended to touch segregation.*" He calls the decision a "draw" one, stating the Supreme Court could have op

positely decided the case "to discard segregation under the (14th) Amendment, at least for a time."

Dr. Kelly's indictment speaks for itself. Let it now be seriously and earnestly observed, that the obvious "Cheshire cat grin" look of his countenance in his photograph appearing on the first page of said article, seems to disclose his exuberance, exhilaration and self-praise for his said efforts as if being intended as saying, "to hell" so to speak, "with the millions of people in this country adversely affected thereby!"

11. It is most respectfully stated, that there must be something gravely wrong or erroneous with respect to said Brown School Case decision, as it has caused as is common knowledge of the widest publicity and attention throughout the United States, for the association of the Chief Justices of the Supreme Courts of the several states to take notice thereof, and resolve thereupon, at the meeting of forty-four of them held at Pasadena, California, on August 23rd, 1958, and upon the vote taken on this subject they stood 36 against the rationale and character of said Brown School Case decision, to only 8 favoring such judicial decisions.

It is respectfully said that the report adopted by Chief Justices of 36 of our states was and is critical of this Court, declaring it has tended to adopt the role of policy-maker without proper judicial restraint; that this Court has abused the Constitution with reference to States' Rights, concerning the internal order and prosperity of the several states; that decisions of this Court show, collectively, a continuing and accelerating trend toward increasing power of the national government, contracting power of the state governments, exercised, by this Court, under its views of the 14th Amendment to the U. S. Constitution; that this Court, in cases arising under the 14th Amendment, has assumed

what seems primarily *legislative power*. The report points out that if is strange that this Court should obtain immense, and in many respects, dominant power which it now wields. Etc., Etc.

We most respectfully say, that this is the first of this kind of criticism, from such a high and lofty source, of this Court in the history of the United States. The report points out the difference of having a government by men, not of law. It is most respectfully stated, on such premise, that any type of totalitarian government would not be popular in this country, the United States.

FINAL STATEMENT

It is respectfully submitted that competent, relevant and material composition and citations above referred to and given show that the irrefutable detriments to the majority white minor children public school students at Memphis, and elsewhere so affected, now threatens them and their descendants by forced school racial integration of Negro students with white students therein, together, in their coming daily lives, may only be avoided and stopped by such demanded and called for reexamination of the judicial fiat, said Brown School Case decision, and of its withdrawal or relaxation by this Court in its status as guardian of the penalized majority related, toward such end and benefit; that it will be by such considerate adjudication by this Court only, that mongrelization of very substantial numbers of the white race with the Negro race, in ever increasing extent until the very integrity of the white race in the United States may reasonably be foretold now, will be corrupted and destroyed as the result of said Brown School Case decision if it is left by this Court to stand as it now is. The hands of countless living white children and millions of them yet unborn, are now extended to this Court, praying

relief, which this Court may only grant to them by freeing them from the coercion of said decision, which now damns their future if its detriments to each, and all of them in one or more material aspects as are above described, are not ended by this Court now, timely, before such mongrelization may not be undone and, otherwise, before each begins to serve the sentence imposed by this Court's said decision. It is respectfully stated, that the vast majority related are entitled to the relief, in such particular, which it is within the power and discretion of this Court, to award them.

It is respectfully said that the hands of millions of the fathers and mothers of the white race constituting, with their white children, the great majority of the population of the United States, are likewise extended in supplication to this Court, on behalf of their sons and daughters and on their own behalves as their parents now having just apprehension and fear with respect to the future of their progeny, and descendants, by reason of said Brown School Case decision as it now exists. It is respectfully stated, that this vast majority of white people, parents and children, are entitled to relief, in such particular, which is also within the power and discretion of this Court, to grant.

It is respectfully said that any refusal by this Court to grant said relief would be tantamount to its erroneous favorable decision with respect to the substantial minority related, the Negroes in the United States, against the majority white race therein, which it is respectfully said is the indisputable situation which now exists by and under said Brown School Case decision, such exigency having been created thereby, which will continue unless this Court reconsiders its said determination and thereupon modifies it, materially, to what it now does and imposes against the

overwhelming majority white race population, and tax payers, of this country the United States.

It is respectfully said with reference to the contents above of this brief and argument, that it is considered they modestly follow in the foot steps of Nehemiah in his Biblical address "unto the *nobles*, and to the *rulers*, and to the rest of the *people*, be not ye afraid of them: remember the Lord, which is great and terrible, and *fight for your brethren, your sons, and your daughters, your wives, and your houses*" (Neh. 4:14) against their enemies, viz. any who would now *corrupt, nonracelize and destroy them* as made by God in his image, after His likeness, Gen. 1:26-27. *Man, in his body, is the temple* "of the Holy Ghost" (1 Cor. 6:19) and is *"the temple of the living God"* (II Cor. 6:16, I Cor. 3:17) and we, all, have it clearly stated in Scripture, *"if any man defile the temple of God, him shall God destroy."* I Cor. 3:17.

It is respectfully submitted, in view of the verities involved, that one or the other of the following made prayers to this Court should be granted by it in this cause, because, importantly, the said Brown School Case decision, a sociological decree, under the immutable principles and processes of sociology forces present and everlasting future such detriments on and to the majority white race of the United States that such effects will be perpetuated, and may never be recalled, to the eternal detriment of our country, the United States, in all time ahead.

PRAYERS

WHEREFORE, IT IS RESPECTFULLY PRAYED, (1) that said Brown School Case decision be overruled, vacated and set aside; (2) that the decision rendered in this cause by the Sixth U. S. Circuit Court of Appeals be re-

versed, and that this cause be duly remanded to such effect with respect to the public school system at Memphis, Tennessee, and elsewhere under the same attendant circumstances; or (3) that this cause be remanded allowing the public school authorities at Memphis to operate its public schools with separate but equal facilities with respect to the white and Negro students attending same because of the great number of Negro students related, being about 44 per cent of the total of all students in the public school system at Memphis, in the nature as was recommended to be done under similar circumstances at Washington, D. C., by four of the six members of the House Congressional SubCommittee officially reporting to such effect; as is above referred to; and (4) prayer is respectfully made now for all general relief consonant with the character of same as appears immediately above herein mentioned and referred to.

Respectfully submitted,

BRUCE LAW.

RICHARD T. ELY.

(Marvin Brooks Northcutt)

Attorneys for Memphis Citizens' Council, a Corporation, of Memphis, Shelby County, Tennessee.

See:
Addenda, next page.

ADDENDA.

By this very brief addenda, now included after preparation and handing copy of the above to the printer to complete, it is respectfully said that movant, Memphis Citizens' Council, has had the very late opportunity to see and read the petition for certiorari herein and to be astounded to observe therein the following representation to this Court, to-wit:

"We (petitioners) *know* that *it* (petitioners' suggested plan for racial integration of the public schools of Memphis) *has been accepted* as a workable plan *by every element of the community*" (page 18).

It is hereby respectfully stated, that said representation is not true with respect to the very substantial number of white membership of movant and in its considered opinion, now expressed, of the most part of the white majority of the people of Memphis.

This addenda is respectfully added to challenge said representation of petitioners, for the information of this Court in this certiorari proceeding, and as an indisputable example of movant's support of its principles and purposes opposing race-mixing as in the public schools at Memphis it is here respectfully said that movant's said principles and purposes have recently been adopted by and are now the principles and purposes of the sixty (60) odd civic clubs of Memphis and Shelby County, Tennessee, which represent from 40,000 to 45,000 of white citizens resident therein, as well as countless others of both the white and Negro residents of the same locality.

The Memphis Citizens' Council respectfully states, that it is its considered opinion that the overwhelming majority of all people of Memphis and Shelby County, Tennessee, are seriously and irrevocably opposed to Negro with white student racial integration of their public schools, which they support and pay for by their school taxes so used, collected from them therefor.

Respectfully submitted,

BRUCE LAW.

RICHARD T. ELY.

MARVIN BROOKS NORFLEET.
Attorneys for Movant, Memphis Citizens' Council.